

**The Mosier Zoning Ordinance (Codified September 2004)  
Adopted by the City Council as Ordinance No. 136**

**Chapters:**

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**CHAPTER 1  
INTRODUCTORY PROVISIONS**

**Section:**

- 1.1 Title
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- 1.5 Relationship to Other Regulations
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**1.1 – Title** This ordinance shall be known as the City of Mosier Zoning Ordinance or the “MZO.”

**1.2 - Purposes**

A. This ordinance is intended to implement the applicable State-wide Planning Goals, administrative rules, ORS chapters 197 and 227, and the goals and policies set forth in the city’s Comprehensive Plan. The land use regulations and procedures set forth in this ordinance, in conjunction with the city’s other land use regulations, are designed to provide a comprehensive and coordinated system for regulating the use of land and for providing necessary urban services and facilities.

B. This ordinance is adopted to promote and protect the health, safety and welfare of the citizens of the City of Mosier.

C. This ordinance replaces and repeals the previous zoning ordinance (Ordinance No. 134).

### **1.3 – Applicability and Compliance Required**

A. All use and development of land within the corporate limits of the City of Mosier shall conform to the requirements of this ordinance. In addition, the city may through intergovernmental agreements, exercise land use regulatory and/or permitting authority on land outside the city limits. Any use or development of land thus subject to the city's land use regulations but does not conform to the requirements of this ordinance, or where a permit is required but none is obtained, is a violation of this ordinance and a civil infraction subject to prosecution by the city.

B. Any land use permit or approval granted by the city, including any conditions attached thereto, shall become a binding land use regulation enforceable upon any land that is subject to such a permit or land use approval. Any violation of, or failure to fulfill, any such conditions is also a violation of this ordinance and a civil infraction subject to prosecution by the city.

C. The building official shall not issue any permit for the construction, reconstruction, use or change of use of a structure or land that does not conform to the requirements of this ordinance.

D. Before land may be put to any new use, or construction, or for which a permit is required by this or any other city ordinance, the property owner or that person's representative shall submit an application for the appropriate permit or approval. The applicant and property owner shall be responsible for the accuracy of all information submitted in support of any permit or land use application.

**1.4 – Interpretation.** The city planner, as designated by the city council, shall have the initial authority and responsibility to interpret and enforce all terms, provisions, and requirements of the MZO. If requested, the city planner may make a formal interpretation in writing, in accordance with the Type II decision making procedures provided for in Chapter 7. In all cases where there is a dispute as to the meaning of an ambiguous term, expression or requirement of this ordinance, the city council's reasonable interpretation shall control.

**1.5 – Relationship to Other Regulations.** Where the provisions of this ordinance conflict with some other city ordinance or regulation, the more restrictive or more specific regulation shall govern. Where a use is allowed in one zone and not mentioned in another zone, it is assumed that the use is prohibited in the other zone. Any use not specifically listed as being allowed in a zone is assumed to be not allowed unless specifically authorized through a similar use determination is obtained under the provisions of Chapter 4.

### **1.6 – Definitions.**

A. Except as defined in this section, terms used in this ordinance shall have their ordinary meanings. Where terms are ambiguous or subject to several possible meanings, the context of

this ordinance, the Land Division Ordinance and Comprehensive Plan shall dictate the most appropriate meaning.

B. As used in this ordinance, the singular includes the plural and the masculine includes the feminine and neuter; the word “may” is discretionary, the “shall” is mandatory. The following words and phrases shall have the following meanings:

1. “Access” means the legal right of ingress or egress by which pedestrians and vehicles enter and leave property. Demonstration of an access right requires documentation in the form of a recorded instrument or legal conveyance of access from the property owner.
2. “Accessory use” or “accessory structure” means a use or structure incidental and subordinate to the primary use of a property and which is located on the same lot as the primary use or is on a contiguous lot under the same ownership.
3. “Accessory dwelling unit” means one dwelling unit not exceeding 640 sf in floor area, that includes a kitchen, not more than one bedroom and one bathroom, on a lot with an existing single family dwelling or within a larger building put to some commercial use.
4. “Alley” means a street which affords only a secondary means of access to the property
5. “Applicant” means any person or party who submits an application for a quasi-judicial permit or determination under this ordinance or the city’s Land Division Ordinance.
6. “Application” means any request for a quasi-judicial decision under this ordinance or the city’s Land Division Ordinance.
7. “Approval Criteria” and “Approval standards” mean the substantive requirements set forth in this ordinance, the Comprehensive Plan, the Land Division Ordinance and any applicable provision of state law that must be met in order for a permit to be approved.
8. “Automobile wrecking yard” means the commercial storage or sale of used automobile or truck parts or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof, unless said activity takes place outside of an enclosed structure.
9. “Bed and Breakfast” means an establishment in a residential zone that contains up to 5 guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to 15 days. Bed and Breakfasts require a conditional use permit and compliance with the applicable standards in Section 3.7
10. “Building” means a structure or manufactured home built for the support, shelter, or enclosure of people, animals or property of any kind.

11. "Building official" means the State of Oregon Building Official, or that person's duly authorized representative, who is responsible for the administration and enforcement of the state structural specialty codes, including the building code, in Mosier.
12. "Carport" means a stationary, roofed structure or a portion of a building open on two or more sides primarily used for the parking of motor vehicles.
13. "Church" means a building used primarily for religious worship.
14. "Change of use" means any use that substantially differs – either qualitatively or quantitatively – from the current use of a structure or property. Factors to consider when identifying a change of use include the effects on parking, drainage, circulation, landscaping, building arrangements, and nuisance factors including, but not limited to, traffic, lighting and noise, the number or type of items sold or services provided.
15. "Child care center" means a facility that provides care and supervision of minor children for periods of less than 24 hours and which complies with all applicable state licensing requirements.
16. "City" means the City of Mosier.
17. "City Council" means the Mosier City Council.
18. "Commercial use" means any activity involving buying and selling of goods and services.
19. "City Planner" means the person designated by the city council to interpret, apply and enforce provisions of this ordinance and the city's Subdivision Ordinance, including the review of permit applications and the issuance of permits.
20. "Drive through facilities" are commercial facilities designed to serve customers who remain in their vehicles, such as those associated with fast food restaurants, banks and coffee stands.
21. "Driveway apron" means a paved or concrete connection from the public street to the property line and/or driveway of a dwelling unit.
22. "Duplex" means a building containing 2 dwelling units, each of which is designed for occupancy by a single household.
23. "Dwelling, single family" means any building designed or used exclusively for occupancy by one household and containing one dwelling unit. The term includes manufactured homes meeting the requirements of Section 3.6.
24. "Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one household or a group residence. A manufactured home that complies with the requirements of this

ordinance is a dwelling unit, but a recreational vehicle is not, nor can it be used as, a dwelling unit.

25. “Family day care” means a facility that provides care for not more than 12 children in a home and which complies with all applicable state licensing requirements.
26. “Final Action” and “Final Decision” mean the city’s final decision on a permit application for which there is either no appeal to another decision maker within the city, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with Chapter 7. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision. All applicable appeal periods begin to run on the date a decision becomes final.
27. “Formula take-out food restaurant” means a restaurant or establishment that (1) is required by contractual or other arrangement to offer standardized menus, ingredients, food preparation, interior or exterior design and/or uniforms and (2) serves or delivers its food in disposable containers.
28. “Fourplex” means a building containing 4 dwelling units, each of which is designed for occupancy by a single household.
29. “Frontage Street or road” means a minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.
30. “Grade” -means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building.
31. “Group residence” or “group home” means a residence for a group of more than 5 persons who are not related by blood, marriage, legal adoption or legal guardianship, living together in the same residential structure where there is a communal kitchen and dining facility.
32. “Height of building” means the vertical distance above the base point measured to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the mid-point (half way between the eave and the peak) of a pitched or hipped roof. The base point shall be the height of the original (pre-development) grade of the property measured 5 feet out from the midpoint along the foundation wall. When measuring building height on a sloping lot, the base point shall be the average grade measured 5 feet out from the midpoint of all four walls.
33. “Home occupation” means a lawful commercial occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, or lawfully constructed accessory building and which is secondary to the primary residential use of the dwelling. Home occupations require a conditional use permit and compliance with the applicable standards in Section 3.11.

34. "Household" means one or more people related by blood, marriage, adoption or legal guardianship, plus up to 3 additional unrelated people, all of whom live in one dwelling unit.
35. "Industrial" means the making of commodities by manufacturing, assembling, fabrication, or compounding by manual labor or machinery. The term includes physical processes or combinations thereof.
36. "Legislative" means any action or proceeding to amend any city ordinance, including this one or the Land Division Ordinance, the city's comprehensive plan or related maps, and does not pertain to a particular property or small set of properties.
37. "Light industrial" means an industrial use which occurs totally within an enclosed structure and where there is no odor, vibration, dust, or noise discernible outside the structure.
38. "Lot" means a parcel or tract of land that was legally created, according to the procedural and dimensional requirements that existed at the time of creation, and the parcel or tract has remained lawful since creation.
39. "Lot depth" means the average distance between the front lot line and the rear lot line.
40. "Lot line, front," means the property line closest to the street from which the access to the lot is commonly made.
41. "Lot line, rear," means the property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other odd-shaped lot or parcel, the rear lot line is a line 10 feet in length within the lot or parcel parallel to and at a maximum distance from the front lot line. In the above instance, and if the front line is curved and a determination of the parallel relationship to the front lot line is being made, a straight line connecting the two end points of the front lot line shall be used. In the case of a corner lot or parcel, either interior lot line may be the rear lot line, regardless of the placement of the front door.
42. "Lot line, side," means the property lines which are approximately perpendicular to and between the front and rear lot lines.
43. "Lot width" means the average horizontal distance between the side lot lines.
44. "Lot of record" means a parcel or lot that meets the requirements of "lot" as defined above, except that one or more dimensional requirements have changed since the time of creation so as to render the lot nonconforming.
45. "LUBA" means the Oregon Land Use Board of Appeals.
46. "Manufactured home" means a transportable single family dwelling conforming to the Manufactured Housing Construction and Safety Standards Code of the U.S. Department of Housing and Urban Development, but is not regulated by the Oregon State Structural

Specialty Code and Fire Life Safety Regulations, and is intended for permanent occupancy. A recreational vehicle is not, and cannot be used as, a manufactured home.

47. “Manufactured home park” means any place where 4 or more manufactured dwellings (as defined in ORS 446.003(26)) are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured Dwelling Park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the City of Mosier under an ordinance adopted pursuant to ORS 92.010 to 92.190.
48. “Material deviation” means any of the following changes to a previously approved permit:
- a. For subdivisions or planned unit developments, an increase in the total number of dwelling units or lots by 10% or more, an increase in the number of multiple family dwellings by more than 10%, or a reduction in the amount of landscaping, open space or land reserved for protected feature of 10% or more.
  - b. For conditional use permits or other approval involving a request to change the amount of commercial or industrial area by more than 10%.
  - c. For any permit approval, a reduction in the amount of landscaping, open space or land reserved for some protected feature of 10% or more or the relocation of buildings, streets, access points onto the existing public right of way, utility easements, pedestrian/bicycle accessways, parking lots, landscaping, or other site improvements away from the previously approved general location.
  - d. Any change to a non-quantified condition or requirement or one which renders the prior approved permit incompatible with surrounding lands or development or noncompliant with any of condition of approval or approval criterion.
49. “Motel” is the same as a “hotel” and “boarding house” and means any building that rents rooms for temporary residence by the day, night, week or month, excluding bed and breakfast establishments as defined above.
50. “Nonconforming use,” structure or lot means a use, structure or lot that was lawfully established, existing and active at the time this ordinance or any amendment thereto became effective, has been actively maintained to the same extent without any gaps or lapses greater than one year (12 continuous months) since the time restrictive zoning was first imposed, and which does not conform to one or more of the current requirements of this ordinance. A nonconforming use has a qualitative component, *i.e.*, the nature or type of use, and a quantitative component, *i.e.*, what is the measurable extent of the use. A nonconforming use can decrease in extent over time, but it cannot lawfully increase in extent over time.

51. "Occupation" means any endeavor for profit.
52. "Outdoor storage" means the keeping of personal or business property or motor vehicles outside of a building for more than 72 consecutive hours.
53. "Owner" means a person owning a legally recognized interest in real property.
54. "Parcel" means a tract of land that is created by partitioning of land.
55. "Parking space" means a rectangle not less than 18 feet long and 9 feet wide for use by a vehicle.
56. "Permit" means a quasi-judicial discretionary approval of the development of land that applies or interprets any provision of this ordinance, the Mosier Comprehensive Plan or the Land Division Ordinance, including, conditional use permits, subdivisions, partitions, planned unit developments, formal code interpretations, variances, similar use determinations, nonconforming use verifications, and any modification thereto.
57. "Person" means a natural person, firm, partnership, estate, receiver, syndicate, branch of government or any group or combination acting as a unit.
58. "Private driveway" means any form of access to a lot that is not dedicated to, and available for use by, the general public.
59. "Professional office" means a use involving professional services such as medical care, consulting, legal services, and other similar services.
60. "Projections" that are allowed to extent into required setbacks and above the maximum building height include architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues antennas and the like as determined by the city planner.
61. "Public facility or use" means a facility or use owned or used by a governmental entity and used for public service, police, fire protection, sewage collection and treatment, storm drainage systems, water distribution and treatment, public health services, public recreational programs and facilities, and library services. Surface mines owned or operated by a governmental entity or any use accessory thereto are not public facilities or uses.
62. "Public right of way" means a strip of land dedicated to the general public and open for ingress, egress and the placement of utilities.
63. "Quasi-judicial" means a proceeding initiated by an application in which existing standards or criteria are applied to a specific set of facts in order to determine whether the applicable criteria are met. The result of a quasi-judicial decision affects only one or a small number of identifiable properties or people and is not generally applicable.



64. “Recreational vehicle” means a trailer, camper, motor home or similar vehicle, with or without its own engine, which is designed for temporary occupancy and has a gross floor space of less than 400 sf. A recreational vehicle cannot be used as a dwelling unit or a manufactured home, as defined in this Chapter.
65. “Recreational vehicle park” means any area designed to provide temporary parking for, and use of, recreational vehicles and which meets all applicable state licensing and permitting requirements. The maximum stay shall be limited to 120 consecutive days.
66. “Residential care facility” means a residential care, residential training, or residential treatment facility licensed or registered by the State (Mental Health and Development Services Division) as defined in ORS 443.400, which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for 6 to 15 individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the residential facility. A residential facility does not include a residential school; state or local correctional facility; juvenile training school; youth care center operated by a county juvenile department; juvenile detention facility; nursing home; family care facility; or children’s or adult day care as defined by State law.
67. “Residential home” means a residential treatment or training or adult foster home licensed by or under the authority of the State (Mental Health and Development Services Division), which provides residential care alone or in conjunction with treatment or training, or a combination thereof, of 5 or fewer individuals who need not be related. Staff required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any residents of the residential home.
68. “Residential use” means the use of a structure for occupancy as a human dwelling or lodging place, such as a single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.
69. “Setback” means an area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained. Setbacks are measured from the rear, side and front property lines to the nearest part of a structure.
70. “Sign” means an outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, or other thing that is used, designed or intended to communicate to persons or the public. The term includes the sign supporting structure, display surface and all other component parts of the sign. When dimensions of the sign are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but the term shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.
71. “Street” means the entire width of a public right-of-way.

72. "Structure" means a man made building constructed or built having a fixed base on or fixed connection to the ground or other structure. Surface coverings such as pavement and concrete are not structures.
73. "Subject property" means one or more parcels of real property that are the subject of a quasi-judicial permit application.
74. "Temporary event" means a one-time event or limited frequency event or use that will not last for more than one week or consist of more than five (5) event days per calendar year and then will end. Temporary events do not involve construction or alteration of any permanent building or structure nor connection with any public facilities, but all impacts of the use, such as traffic pedestrian circulation, trash collection and the like, must be avoided, minimized or mitigated for. Temporary events are only allowed in the Commercial, Industrial and Public Lands zone. Any signs associated with a temporary event are subject to the sign code regulations in Chapter 8. Approval of a temporary event permit is not a land use permit and is not subject the land use decision making procedures in Chapter 7.
75. "Temporary use" means a use established for a limited duration, not to exceed one year, that is, or will be, discontinued after one year. Temporary use does not involve construction or alteration of any permanent building or structure, although the authorization of the temporary use does not necessarily preclude such construction. All impacts of the use, such as traffic pedestrian circulation, trash collection and the like, must be avoided, minimized or mitigated for. Any signs associated with a temporary event are subject to the sign code regulations in Chapter 8.
76. "Townhouse" means two or more single family dwellings that are attached (common wall) with no lot or space separating them and where the legal property line separating the lots runs through the building. Individual townhouse units can be separately owned and sold.
77. "Tract" means a separately described parcel of land that cannot be used for the construction of a dwelling or any other structure, but instead is used for open space, stormwater detention or some other similar purpose.
78. "Triplex" means a building containing 3 dwelling units, each of which is designed for occupancy by a single household.

**CHAPTER 2  
BASIC PROVISIONS AND LAND USE ZONES**

**Section:**

- 2.1 Compliance with Ordinance Provisions Required
- 2.2 Establishment Land Use Zones
- 2.3 Official Zoning Map Adopted
- 2.4 Zoning Boundaries
- 2.5 Residential Zone (R-5)
- 2.6 Residential Zone (R-10)
- 2.7 Commercial Zone (C)
- 2.8 Industrial Zone (I)
- 2.9 Open Space (OS)
- 2.10 Public Lands and Facilities (P)

**2.1 - Compliance with Ordinance Provisions Required.** property may be used, and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used, only as allowed by this ordinance. If a zone does not list a particular proposed use, the use is not allowed unless it is authorized through a similar use determination as provided in Chapter 4.

**2.2 - Establishment Land Use Zones.** This ordinance hereby establishes the following land use zones for the city.

Zone	Abbreviated Designation
Residential 5,000 square foot minimum lot size	R-5
Residential 10,000 square foot minimum lot size	R-10
Open Space	OS
Commercial	C
Industrial	I
Public Lands and Facilities	P

**2.3 – Official Zoning Map Adopted.** The Mosier Zoning Map is attached to this ordinance as Appendix I and is incorporated herein and adopted by this reference. The official boundaries of the zones described in this ordinance are indicated on the Mosier Zoning Map. Zoning Map amendments shall be dated with the effective date of the ordinance that adopts the map amendment and filed in the office of the city recorder.

**2.4 - Zoning Boundaries.** Unless otherwise specified, zone boundaries are center lines of streets, lot lines, city limit lines, or the rim of Mosier Creek Canyon. Where a street does not serve as a zone boundary, the public right-of-way shall have the same zoning designation as the adjacent or surrounding property. All private driveways are subject to city zoning regulations.

## 2.5 - Residential Zone (R-5)

### A. Permitted Uses:

1. Single family dwellings and accessory structures
2. Group Residential

### B. Conditional Uses:

1. Accessory dwelling unit
2. Bed and breakfast facilities
3. Churches
4. Civic or fraternal organization
5. Duplexes, triplexes, fourplexes, and sixplexes
6. Family day care
7. Home occupations
8. Manufactured home parks
9. Planned Unit Development
10. Public parks, playgrounds, and related facilities
11. Residential Care Facilities
12. Schools and child care centers
13. Townhouses
14. Public facilities
15. Access for non-residential uses on adjacent parcels

### C. Minimum Lot Size: The following minimum lot sizes shall control:

Single family dwelling	5,000 square feet
Duplex	10,000 square feet
Triplex	12,000 square feet
Fourplex	14,000 square feet
Sixplex	16,000 square feet

### D. Setback Requirements: The minimum setback requirements shall be as follows:

1. **Front Yard Setback:** A minimum front yard setback of 10 feet is required, except that an unenclosed porch may be within 8 feet of the front property line, as long as it does not encroach into a public utility easement. Garages and carports shall be recessed behind the front building line at least 4 feet. Garage and carport entrances may be built flush with the front building line only when the building is set back at least 20 feet from the street accessed by the driveway so that a vehicle can be parked in front of the garage and not encroach into the setbacks or sidewalk area. Where garages do not face the frontage street, the garage need not be flush with the house but may protrude toward the frontage street so long as a minimum front yard setback of 10 feet is maintained.
2. **Rear Yard Setback:** A minimum rear yard setback of 5 feet is required.

3. Side Yard Setback: The minimum side yard setback shall be 5 feet, except for corner lots where the side yard setback facing the street shall be 10 feet.
  4. Setback Exceptions: Projections may encroach no more than 3 inches for each foot of required yard width.
- E. Maximum Building Height: Buildings, structures, or portions thereof shall not be taller than 35 feet as measured from original (pre-development) grade up to the highest point of the structure, except for projections.
- F. Parking Regulations:
1. Each dwelling unit shall be provided with at least 2 parking spaces on the building site.
  2. Parking spaces taking access from a public dedicated alley may be located within the setback area.
- G. Signs: All signs are subject to the Sign Code regulations in Chapter 8.
- H. Sanitation Regulations: No structure may be occupied without it first being connected to the city sewer and water systems at the property owner's expense.

## **2.6 - Residential Zone (R-10)**

- A. Uses permitted outright:
1. Single family dwellings and accessory structures
  2. Group Residential
- B. Conditional Uses:
1. Accessory dwelling unit
  2. Bed and breakfast facilities
  3. Churches
  4. Civic or fraternal organization
  5. Duplexes, triplexes, fourplexes, and sixplexes.
  6. Family day care
  7. Home occupations
  8. Manufactured home parks
  9. Planned Unit Development
  10. Public parks, playgrounds, and related facilities
  11. Residential Care Facilities
  12. Schools and child care centers
  13. Townhouses
  14. Public facilities
  15. Access for non-residential uses on adjacent parcels
- C. Minimum Lot Sizes: The following minimum lot sizes shall control:

Single family dwelling	10,000 square feet
Duplex	10,000 square feet
Triplex	12,000 square feet
Fourplex	14,000 square feet
Sixplex	16,000 square feet

D. Setback Requirements: The minimum setback requirements shall be as follows:

1. Front Yard Setback: A minimum front yard setback of 10 feet is required, except that an unenclosed porch may be within 8 feet of the front property line, as long as it does not encroach into a public utility easement. Garages and carports shall be recessed behind the front building line at least 4 feet. Garage and carport entrances may be built flush with the front building line only when the building is set back at least 20 feet from the street accessed by the driveway so that a vehicle can be parked in front of the garage and not encroach into the setbacks or sidewalk area. Where garages do not face the frontage street, the garage need not be flush with the house but may protrude toward the frontage street so long as a minimum front yard setback of 10 feet is maintained.
2. Rear Yard Setbacks: A minimum rear yard setback of 5 feet is required.
3. Side Yard Setbacks: The minimum side yard setback shall be 5 feet, except for corner lots where the side yard setback facing the street shall be 10 feet.
4. Setback Exceptions: Projections may not encroach more than 3 inches for each foot of required yard width.

E. Maximum Building Height: Buildings, structures, or portions thereof shall not be taller than 35 feet as measured from original (pre-development) grade up to the highest point of the structure except for projections.

F. Parking Regulations:

1. Each dwelling unit shall be provided with at least 2 parking spaces on the building site.
2. Parking spaces taking access from a public dedicated alley may be located within the setback area.

G. Signs: All signs are subject to the Sign Code regulations in Chapter 8.

H. Sanitation Regulations: No structure may be occupied without it first being connected to the city sewer and water systems at the property owner's expense.

## 2.7 - Commercial Zone (C)

A. Uses permitted outright: None

B. Conditional Uses:

1. Business, governmental, or professional offices
2. Change of use
3. Financial institutions, such as a bank
4. Group Residential
5. Parking lots of 4 or more spaces, new or expanded, and/or the equivalent of paving equal to 4 or more parking spaces; shared parking lots may include up to the maximum combined number of spaces specified in Section 3.12 of this ordinance.
6. Personal and business service such as barber shop, tailoring shop, printing shop, laundry or dry cleaning establishment, and electrical repair shops
7. Residential Facility
8. Retail business in which the operation takes place solely within an enclosed building
9. Agricultural support services including produce storage facilities
10. Churches
11. Commercial amusement
12. Family oriented craft industries
13. Hospitals, sanitariums, rest homes, nursing or convalescent homes
14. Light industrial uses
15. Lodge for civic or fraternal organization
16. Planned unit developments
17. Public facilities and uses
18. Public parks, playgrounds and related facilities
19. Commercial uses such as motels, gasoline service station or restaurant
20. Single family dwellings, duplexes, and an accessory dwelling in a building where there is an established commercial use.
21. Schools and day care facilities
22. Temporary uses
23. Rooming and boarding houses
24. Public facilities
25. Drive through facilities where the building is smaller than 200 sq. ft.

C. Prohibited Uses:

1. Drive through facilities where the building is 200 sq.ft. or larger
2. Commercial uses with a footprint larger than 25,000 sq.ft.
3. Outside storage
4. Recreational vehicle park
5. Formula take-out restaurant, such as a fast food operation.
6. Aggregate resource extraction and processing and accessory uses, including hauling, crushing and batching

D. Site Development Requirements:

1. Minimum Lot Size: None
2. Minimum Street Frontage: 25 feet on a dedicated public street.

3. Minimum Yard Setbacks:  
Front - none required  
Side and rear - Not required except in the case where the structure is adjacent to a residential zone, in which case a 10 foot setback is required for all structures.
  4. Maximum Yard Setbacks:  
Front – 10 feet. This standard may be increased when a sidewalk, bicycle path, multi-use path and/or planting strip is provided between the building and front property line.  
Side and rear - Not required.
  5. Maximum Building Height:
    - a. For buildings south of Hwy 30, 35 feet
    - b. For buildings north of Hwy 30, 1 story or 18 feet as measured from top of the pavement of Hwy 30.
  6. Parking Regulations: Parking is required and shall comply with the applicable parking regulations in Chapter 3.
  7. Lighting: Artificial lighting shall be subdued and shall not shine, cause glare, or be unnecessarily bright on surrounding properties. Both interior and exterior lighting shall take into consideration the viewshed and shall be dimmed or shaded as much as possible after closing without compromising safety and security. Flood lights on poles higher than 15 feet are prohibited.
- E. Signs: All signs shall comply with the sign regulations in Chapter 8.
- F. Landscaping: Landscaping is required and shall comply with the landscaping standards of Chapter 10.
- G. Sanitation Regulations: No structure may be occupied or otherwise used in the Commercial Zone unless it is first connected to the city sewer and water systems at the expense of the property owner.

## **2.8 - Industrial Zone (I)**

- A. Uses permitted outright: None.
- B. Conditional Uses: Light industrial uses which take place inside an enclosed building and accessory uses including transportation, loading, unloading and temporary staging.
- C. Prohibited Uses: Aggregate resource extraction and processing and accessory uses, including crushing, hauling and batching.



D. Site Development Requirements:

1. Minimum Lot Size: None
2. Minimum Street Frontage: None
3. Minimum Yard Setbacks: None
4. Maximum Building Height: 35 feet
5. Parking Regulations: Parking is required and shall comply with the applicable parking regulations in Chapter 3.
6. Lighting: Artificial lighting shall be subdued and shall not shine, cause glare, or be unnecessarily bright on surrounding properties. Both interior and exterior lighting shall take into consideration the viewshed and shall be dimmed or shaded as much as possible after closing without compromising safety and security. Flood lights on poles higher than 15 feet are prohibited.

E. Signs: All signs shall be in conformance with the sign regulations in Chapter 8.

F. Landscaping: All landscaping shall be in conformance with the landscape standards of Chapter 10.

I. Sanitation Regulations: No structure may be occupied or otherwise used in the Industrial Zone unless it is first connected to the city sewer and water systems at the expense of the property owner.

## **2.9 - Open Space (OS)**

A. Uses permitted outright: None

B. Conditional Uses - Public or Non-Profit Only:

1. Parks
2. Recreation areas
3. Community center, including housing for senior citizens
4. Public utilities, public facilities and public uses

## **2.10 –Public Lands and Facilities (P)**

**Purpose of Public Lands and Facilities zone.** The public land and facilities zone includes lands in public and semi public ownership or use as designated on Mosier’s official zoning map and is intended to accommodate public and semipublic uses that provide government services, education, and other public services in order to meet public need and demands in a planned and coordinated manner.

Public services and activities conducted by public agencies intended to be accommodated in the Public Lands zone include: recreation, administration, education, and the physical provision of public services such as water and sewer. Semipublic services include public/private partnerships that conduct the activities authorized in this section.

The following uses operated by the public or semi public agency that owns the development site, or operated by an entity other than the public agency upon a finding that the property is not currently needed for a public purpose (per the process described in 2.10 H. 3. Determination of need) may be permitted conditionally subject to special conditional use criteria applicable in the Public Lands zone or subject to conditional use criteria listed in MZO Chapter 5 and the special conditional use criteria applicable in the Public Lands zone.

- A. Uses permitted conditionally subject to special conditional use criteria applicable in the Public Lands zone (2.10 H):
  - 1. Parks, Athletic Fields and Playgrounds
  - 2. Trails and Recreation areas
  - 3. Public and Community Gardens, excepting livestock of any kind
  
- B. Conditional uses subject to special conditional use criteria applicable in the Public Lands zone (2.10 H) and conditional use criteria listed in MZO Chapter 5:
  - 1. Public utilities, public facilities and public uses
  - 2. Community center, including public housing and housing for senior citizens
  - 3. Family day care
  - 4. Schools and child care centers
  - 5. Civic or fraternal organization
  - 6. Schools, Academies, or Studios (including: Ballet, Yoga, Martial Arts, Gymnastics, and Art)
  - 7. Administrative, General and Professional Offices
  - 8. Churches
  - 9. Horticultural Uses, including plant nurseries
  - 10. Information Technology Services
  - 11. Scientific and Educational Research Centers
  
- C. Prohibited Uses:
  - 1. Heavy Industrial uses
  - 2. Aggregate resource extraction and processing and accessory uses, including hauling and asphaltic or concrete batching.
  
- D. Site Development Requirements:
  - 1. Minimum Lot Size: None

2. Minimum Street Frontage: 25 feet on a dedicated public street.
  3. Minimum Yard Setbacks:
    - a) Front - Not required except in the case where the structure is adjacent to a residential zone, in which case a 10 foot setback is required for all structures.
    - b) Side and rear - Not required except in the case where the structure is adjacent to a residential zone, in which case a 10 foot setback is required for all structures.
  4. Maximum Building Height: 35 feet
  5. Parking Regulations: Parking is required and shall comply with the applicable parking regulations in MZO Chapter 3.
  6. Lighting: Artificial lighting shall be subdued and shall not shine, cause glare, or be unnecessarily bright on surrounding properties. Both interior and exterior lighting shall take into consideration the viewshed and shall be dimmed or shaded as much as possible after closing without compromising safety and security. Flood lights on poles higher than 15 feet are prohibited.
- E. Signs: All signs shall comply with the sign regulations in Chapter 8.
- F. Landscaping: Landscaping is required and shall comply with the landscaping standards of Chapter 10.
- G. Sanitation Regulations: No structure may be occupied or otherwise used in the Public Lands zone unless it is first connected to the city sewer and water systems at the expense of the property owner.
- H. Special Conditional Use Criteria Applicable in the Public Lands zone
1. **Ownership.** The subject site must be land owned solely by a public or quasi public agency, or non profit organization established primarily to provide public and quasi public uses allowed outright or conditionally in this section. Prior to sale to private owner(s), an applicant must apply for and obtain a new zoning designation for the public land.
  2. **Proximity to Residential Land.** When a proposed public use, access to a public use, or other use accessory to a public use is to be located within 500 feet of land in any residential zone compatibility with the surrounding zone shall be considered prior to approving the use. The City maintains authority to impose conditions necessary to ensure compatibility with uses permitted in surrounding residential zones and to deny uses that pose adverse impacts that cannot be mitigated to an acceptable level by conditions.

3. **Determination of Need.** The process used by the public agency that owns the property to determine whether a particular use shall be permitted on public property that is found to not be currently needed shall assure that neighborhood residents and property owners in the area have the opportunity to review and comment on the new proposed use.
  
4. **Playgrounds and Recreational Improvements.** School playgrounds or other physical improvements providing opportunities for public recreation shall be retained for use as public parks and recreation sites whenever possible.

## CHAPTER 3 SUPPLEMENTAL PROVISIONS

### **Section:**

- 3.1 Maintenance of Minimum Dimensional Requirements
- 3.2 Access and Frontage Requirements
- 3.3 General Provisions Regarding Accessory Uses
- 3.4 Fences and Hedges
- 3.5 Historic Structure Preservation
- 3.6 Manufactured Home Siting Standards
- 3.7 Bed and Breakfast Facilities Development Standards
- 3.8 Earth Movement, Grading and Removal
- 3.9 Archeological Resources
- 3.10 Vision Clearance Areas
- 3.11 Home Occupations
- 3.12 General Requirements for Parking Lots
- 3.13 General Exceptions to Yard Requirements
- 3.14 General Exceptions to Building Height Limitations and Setbacks
- 3.15 Animals and livestock in the city's Residential Zones
- 3.16 Access for non-residential uses on adjacent parcels

**3.1 – Maintenance of Minimum Dimensional Requirements.** No lot area, yard or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance, and no lot area, yard, setback or other open space which is required by this ordinance for one use shall be used as the required lot area, yard or other open space for another use.

**3.2 – Access and Frontage Requirements.** Every lot shall abut a dedicated public street, other than an alley, for at least 25 feet. Every lot shall have legal access to a public right-of-way.

**3.3 - General Provisions Regarding Accessory Uses.** An accessory use shall be subject to, and comply with, the same requirements that apply to the principal use. Accessory uses must be secondary to the primary use in terms of how the entire property is used, and must augment or facilitate use of the property for the primary use. Accessory uses shall be limited to the same lot as the primary use or must be on an adjacent property under the same ownership as the property where the primary use is situated.

**3.4 – Fences and Hedges.** A fence or hedge within a front yard or a street side yard shall not exceed 6 feet in height for a distance of at least 3 feet from the front lot line. Fences and hedges farther from the front lot line than 3 feet shall not exceed a height of 10 feet.

**3.5 - Historic Structure Preservation.** An Historic Alteration/Demolition Permit is required for a major exterior alteration to, or the demolition of, a designated historic structure or a structure within a designated historic district, as designated by the Comprehensive Plan. The city council

shall process any application for an Historic Alteration/Demolition Permit according to a Type III procedure as provided in Chapter 7. The city council shall review and decide the application according to the Historic Preservation factors of this section.

A. Demolition Procedure: The following factors shall be evaluated in determining whether to all, deny or allow with conditions the demolition of any historical structure, or a structure within an historic district:

1. State of repair of the building
2. The reasonableness of the cost of restoration or repair
3. The purpose of preserving such designated historical building and sites
4. The character of the neighborhood
5. Any other factors the city council determines are appropriate.

Following the city council review, the city council may approve or deny the permit for Land Use action or delay action for 60 days to allow the owner and affected agencies to explore alternatives. If the city council finds that no suitable alternatives are available, the permit may be issued. The city council, upon finding significant progress is being made toward preserving the structure, may extend the delay for an additional 30 days.

B. Major Exterior Alteration Procedure: The following factors shall be evaluated in determining whether to all, deny or allow with conditions the exterior alteration of any historical structure, or a structure within an historic district:

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

necessary to achieve the above objectives. The city council shall disapprove the request if the proposal would reduce the resource's value or historic significance.

C. The city council may attach conditions to an Historic Alteration/Demolition Permit limited to addressing architectural design, surface texture, materials, fixtures, or other facade or surface treatments which are deemed inconsistent with the integrity of the historic values for which the structure or district were designated. The city council shall not attach any condition except for the purpose of preventing developments out of character with the historic aspects of the resource.

D. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which the building official certifies is required for public safety because of unsafe conditions and does not involve a change in design, the construction or reconstruction.

**3.6- Manufactured Home Siting Standards.** Only manufactured homes used as permanent residences and meeting the following criteria are allowed in manufactured home parks or on individual lots in the city's two residential zones:

A. The manufactured home may be multisectional but shall enclose a space of not less than 1,000 sf.

B. The manufactured home shall have a foundation of sufficient strength to support the loads imposed by the manufactured home as specified by the manufacturer's installation instructions. Manufactured home placements shall be reviewed and approved by the building official. In the absence of the specific manufactured home installation instructions, installation of the manufactured home shall follow the installation requirements of state law. As an alternative to a foundation, the manufactured home may have skirting of a noncorrosive, noncombustible material which matches the exterior color of the unit shall be provided.

C. The manufactured home shall have a pitched roof with a slope minimum of 3 feet in height for each 12 feet in width.

D. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on, or comparable to, residential dwellings on nearby lots as determined by the city planner.

E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards required of a single family dwellings constructed under the state building code as defined in ORS 455.010.

F. The Manufactured home shall have a garage or carport constructed of materials similar to the home.

**3.7 - Bed and Breakfast Facilities Development Standards.** Bed and breakfast facilities, as defined in this ordinance, are allowed in both of the city's residential zones with a conditional use permit and compliance with the following additional standards:

- A. The structure shall retain the characteristics and appearance of a single family dwelling.
- B. The number of guest rooms shall be limited to 5, and the number of guests shall be limited to 10.
- C. In addition to the required off-street parking for each residential use, one off-street parking space for each room shall be provided.
- D. Signs conform to standards in Chapter 8 Sign Code.
- E. The applicant shall submit a site plan that shows how the off-street parking requirements will be met and provides landscaping appropriate to a residential neighborhood.

**3.8 - Earth Movement, Grading and Removal.** A written permit approved by the city shall be required for grading, removal or addition of 50 cubic yards or more of earth material from any lot within a calendar year.

**3.9 – Archeological Resources.** If any archeological resources and/or artifacts are uncovered during excavation, all construction activity shall immediately cease and the State Historic Preservation Office shall be contacted.

**3.10- Vision Clearance Areas.** A Vision Clearance Area shall be maintained at the corners of all property at the intersections of two streets or a street and a railroad. All corner lots or parcels shall be provided with and maintain a vision clearance area. The vision clearance area shall provide an area of unobstructed vision from 3½ feet to 8 feet above the top of the curb.

**3.11 - Home Occupations.** Home occupations, as defined in this ordinance, are allowed in both of the city's residential zones with a conditional use permit and compliance with the following additional standards:

- A. The home occupation shall be contained completely inside the house and be accessory to the primary residential use of the structure.
- B. The home shall retain the appearance and characteristics of a home and not a business.
- C. There shall be no exterior display or sign, except by a non-illuminating sign no larger than 2 sf.
- D. There shall be no more than one employee who does not live on site.
- E. There shall be no increase in noise outside the dwelling unit.



F. There is only a minor increase, if any, in traffic traveling to and from the dwelling unit.

**3.12 – General Requirements for Parking Lots.** A parking lot, whether an accessory or principal use, intended for the parking of 4 or more vehicles shall comply with the following:

A. Areas used for standing or maneuvering of vehicles shall all-weather surfaces that do not produce dust.

B. Parking lots shall be designed and constructed to prevent off-site flow of stormwater.

C. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.

D. Service drives to off-street parking areas and access points shall be designed and constructed to facilitate the safe flow of traffic, and shall provide maximum safety for traffic access, pedestrians and vehicular traffic.

E. Access points for parking lots shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points 15 feet from their intersection. Exceptions may be granted by the building official so long as the access is determined to be safe.

F. Landscaping shall be in conformance with the landscape standards in this ordinance.

G. Parking lots shall be provided and located as follows:

1. For new developments on the south side of Highway 30, parking lots shall be located on the side or rear of buildings.

2. For new developments on the north side of Highway 30, parking lots shall be located in the rear of buildings with provisions for shared parking among multiple businesses.

3. Shared parking will be allowed and encouraged for all commercial uses.

a. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.

b. Provision of an equivalent number of parking spaces in a shared parking facility or district may be allowed in lieu of provision of on-site parking required in subsection 3.12.E.4. of this ordinance.

4. The following minimum number of parking spaces shall be provided for the following uses, unless otherwise specified in the base zone:
- a. Business, general retail, personal services. General - one space for 350 square feet of gross floor area. Furniture and appliances - one space per 750 square feet of gross floor area.
  - b. Churches and places of public assembly, including fraternal organizations. One space per four fixed seats.
  - c. Professional Offices. Medical and Dental Offices or Facilities - one space per 350 square feet of gross floor area; General Offices - one space per 450 square feet of gross floor area.
  - d. Hotels and motels. One space for each guest room, plus one space for the manager.
  - e. Restaurants, bars, ice cream parlors and similar uses. One space per four seats or one space per 100 sq. ft. of gross leasable floor area, whichever is less.
  - f. Residential uses.
    - Single family detached housing. 2 parking spaces shall be provided for each detached single family dwelling or manufactured home on an individual lot.
    - Two- and three-family housing. 1.5 spaces per dwelling unit.
    - Multi-family and single family attached housing. 1.5 spaces per dwelling unit.
    - Rooming and boarding houses, dormitories. Two spaces for each three guest rooms, or one per three beds, whichever is more;
  - g. Light Industrial uses. One space per two employees on the largest shift or for each 850 square feet of gross floor area, whichever is less, plus one space per company vehicle.
  - h. Public utilities (gas, water, telephone, etc.), not including business offices. One space per two employees on the largest shift, plus one space per company vehicle; a minimum of two spaces is required.
  - i. Day care centers having 13 or more children. One space per two employees; a minimum of two spaces is required.
  - j. Schools. One and one-half space per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater.

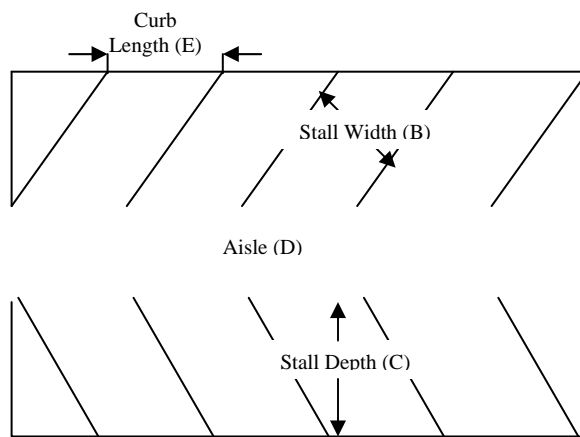
- G. All parking spaces should be designed and built to the standards illustrated in Table 3.12-1 and Figure 3.12-1.

**Table 3.12-1. Parking Stall Dimensions**

Angle (A)	Stall Width (B)	Stall Depth (C)	Aisle Width (1-way) (D)*	Curb Length (E)
0 (parallel)	10' 0"	10' 0"	12'	22'
45	10' 0"	20' 6"	13'	14' 1"
60	10' 0"	21' 6"	18'	11' 10"
70	10' 0"	21' 2"	18'	10' 7"
90	10' 0"	20' 0"	24'	10' 0"

\* 24' minimum for two-way traffic

Figure 3.12-1. Parking Stall Dimensions



- H. Bicycle parking shall be provided in commercial zones. Bicycle parking shall meet the following standards:

1. Bicycle parking for commercial business customers shall be provided along the street at a rate of at least one space per use. Individual uses may provide their own parking, or spaces may be clustered to serve up to six (6) bicycles.
2. Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one building entrance (e.g., no farther away than the closest parking space).
3. Bicycle parking should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, street lights, planters and other pedestrian amenities.

4. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions.

**3.13 – General Exception to Yard Requirements.** Any front yard, except on a corner lot, need not exceed the average of the front yards on developed abutting lots.

**3.14 - General Exceptions to Building Height Limitations and Setbacks.** Vertical projections from a primary structure such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues may project into required setback areas, but not more than 3 inches for each foot of required yard width.

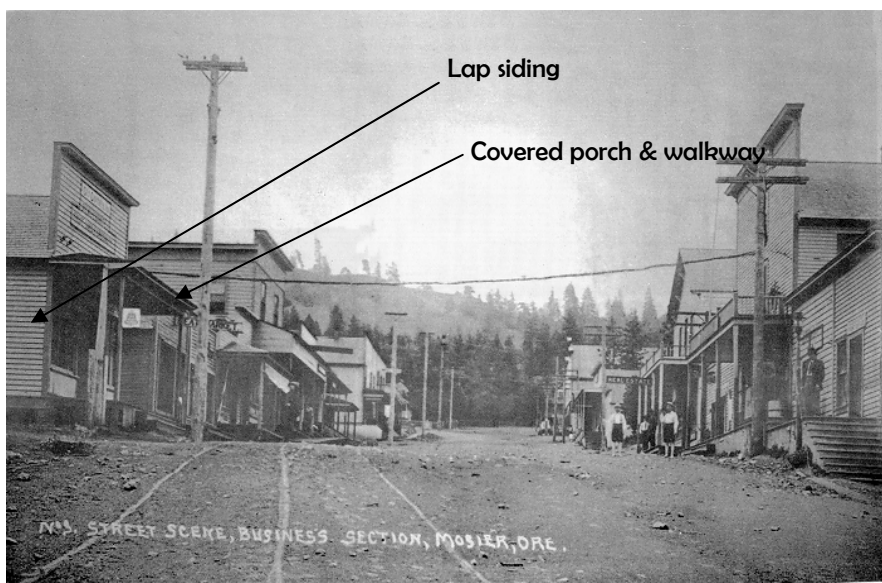
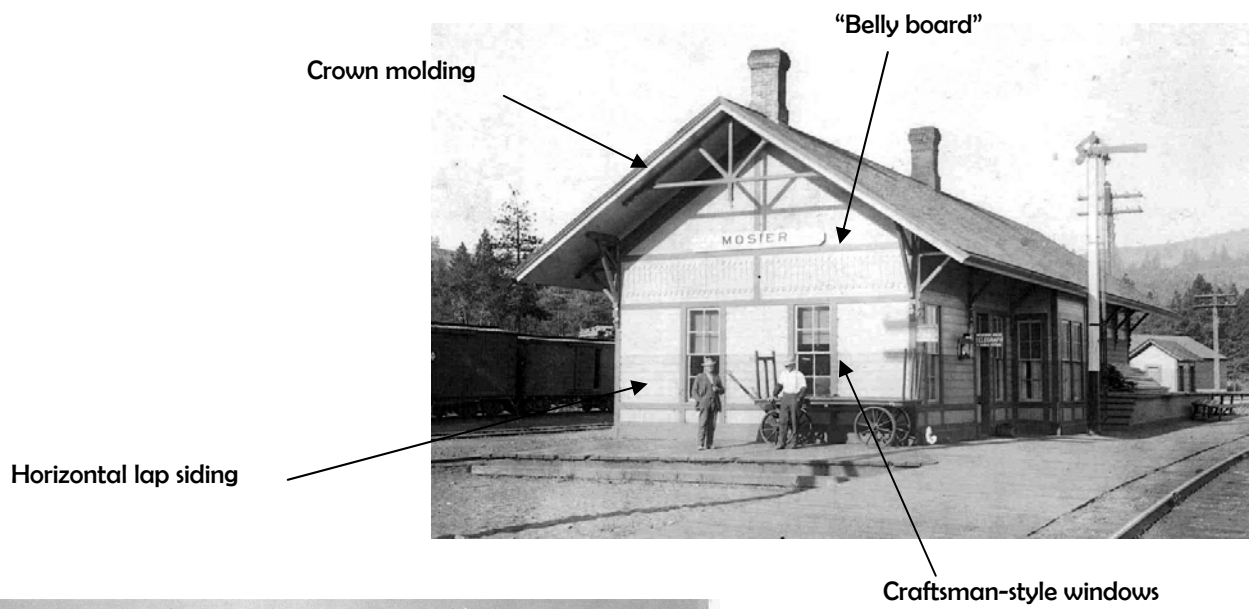
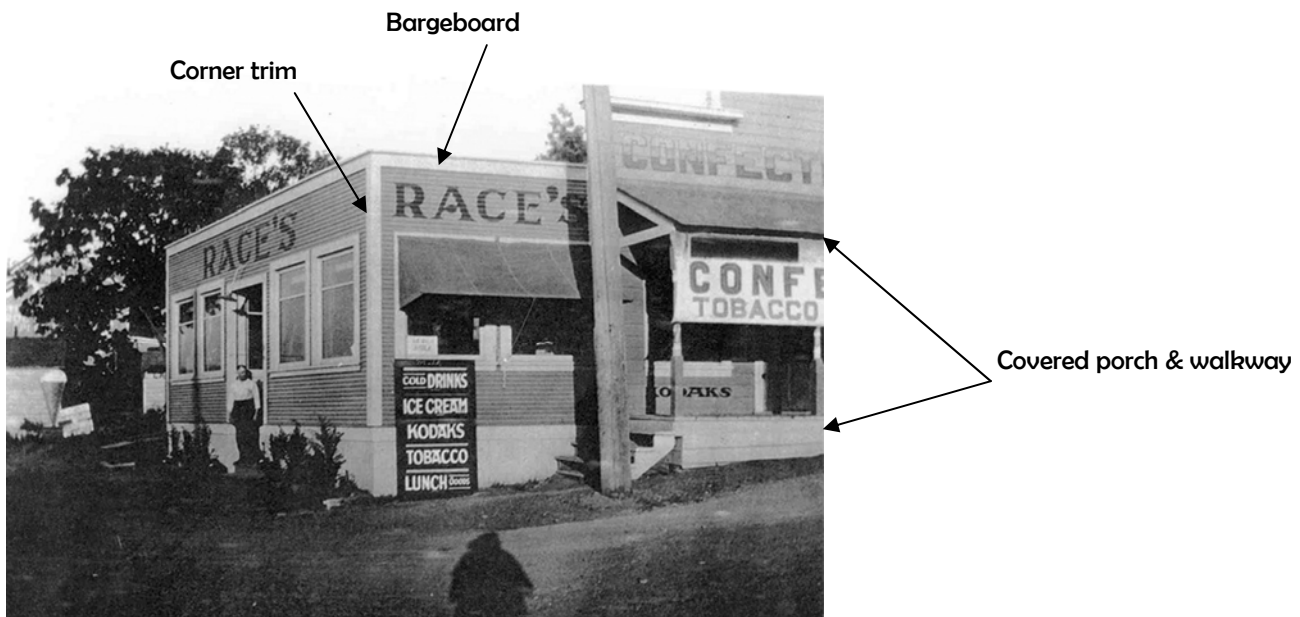
**3.15 Animals and livestock in the city's Residential Zones.** Farm, animals such as pigs, cows, horses, sheep and the like, are not allowed in any of the city's Residential Zones. Up to 5 chickens, ducks or other fowl, but no roosters, may be kept on any property in the Residential Zones.

**3.16 – Access for non-residential uses on adjacent parcels.** Access for non-residential uses that are lawfully established on adjacent parcels may be allowed as a conditional use in either of the city's residential zones subject to the limitations of this section. Any use eligible for approval under this provision shall be limited to vehicular traffic associated with the normal activities of a lawful use on an adjacent parcel where the traffic is compatible and consistent with residential uses. The situation envisioned by this authorization is where a non-residentially zoned parcel lacks direct and unrestricted vehicular access to the public right of way without passing through residentially zoned land. Uses not eligible for such a permit and which could not be served by routing traffic through a residential zone include any use that generates traffic that is not compatible and consistent with uses allowed in the residential zones. The city has full authority to impose any conditions required to ensure that traffic allowed as a use under this section is compatible and consistent with the uses allowed in the residential zones. In the event the city determines that the request cannot be conditioned to ensure compatibility and consistency with uses allowed in the residential zones, the city shall deny the request.

**Section 3.18 – Architectural Design Standards For Commercial Uses -** These architectural guidelines and standards are intended to create a unified look for Mosier's downtown, build on the City's unique character, provide detailed, human-scale design, and afford flexibility to use a variety of building styles. These standards shall apply to all new buildings within areas zoned for commercial use.

- A. Architectural Design Features. The following design features or elements should be incorporated in the design of new or reconstructed buildings. Examples illustrations and photos are shown on Page 30.

1. Regularly spaced craftsman-style windows.
2. Pitched or gabled roofs.
3. Covered walkways or porches.
4. Bargeboards, corner trim boards or other accent trim boards.
5. Lap or decorative siding.
6. Crown or cornice molding.



(Final)

B. Use of Building Materials.

1. Building materials to be encouraged, discouraged or limited in use in construction of new or reconstructed commercial buildings are specified in Table \_\_.

<i>Material</i>	<i>Status</i>
Wood lap siding	E
Rock	E
Faux Rock	E
Brick	E
Board and batten	E
Metal roofs <sup>1</sup>	A
Smooth block (i.e., bare cinderblock)	D
Stucco / faux Stucco	E
Metal or plastic siding	R
Plywood Siding	R

Notes:

A = allowed; E = encouraged; D = discouraged; R = restricted (no more than 15% of the total exterior area of the building may be covered by this material)

1. Colors are encouraged to be light earth tones; vibrant or highly reflective colors are discouraged.
2. Use of sustainable construction materials and practices and renewable energy sources is encouraged in construction of new buildings.

- B. Review and Approval. Architectural Design standards shall be administered through the site plan approval process and subject to a Type 2 approval process as described in section 7.2 of this ordinance.

**CHAPTER 4**  
**PERMITS: NONCONFORMING USES, VARIANCES, SIMILAR USES,**  
**FORMAL CODE INTERPRETATIONS, MODIFICATION OF PRIOR APPROVAL**

**Section:**

- 4.1 Nonconforming Uses – General Rules
- 4.2 Variances
- 4.3 Authorization of Similar Uses
- 4.4 Formal Code Interpretations
- 4.5 Modification to Prior Approvals
- 4.6 Permit Expiration and Extension
- 4.7 Revocation of a Previously Approved Permit
- 4.8 Authority to Condition Permit Approvals

**4.1 – Nonconforming Uses – General Rules.** It is the policy of the city that nonconforming uses are a disfavored exception to the generally applicable zoning requirements and that nonconforming uses will eventually be extinguished and the property, structure and use will eventually come into conformance with the requirements of this ordinance. There is a presumption that the use of any structure or property that does not comply with the requirements of this ordinance is unlawful, and any person claiming entitlement to a nonconforming use has the burden of proving that entitlement through the appropriate process.

A. A nonconforming use or structure, as defined in this ordinance, may be continued at its lawful nature and extent. A nonconforming use cannot be altered or expanded, *i.e.*, no change in use. A nonconforming use can decrease in extent or intensity over time, but it cannot lawfully increase in extent or intensity over time.

B. Discontinuation. If a nonconforming use is discontinued for a period of one year (12 continuous months) or more, further use of the property shall conform to the requirements of this ordinance. If a nonconforming use is diminished in intensity for a period of one year (12 continuous months) or more, the use shall not be resumed to the former intensity.

C. Alterations and expansions. If a nonconforming use is altered, expanded or replaced by another use or structure, the new use shall conform to the requirements of this ordinance.

D. Replacement following destruction. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80% of its fair market value as indicated by the records of the county assessor, a future structure or use on the site shall conform to this ordinance.

E. Relationship to vested rights. Nothing contained in this section shall require any change in the plans or construction, nor an the alteration in the permitted use of a structure for which a permit has been issued by the city prior to the adoption of this ordinance provided the structure



or use is completed and in use within two years from the date the permit allowing the use is approved.

F. Nonconforming use verification. A property owner who claims entitlement to a nonconforming use, or the city council on its own motion, may initiate a proceeding to verify the existence, nature and extent of a claimed nonconforming use or structure. Any such request shall follow a Type III process as provided in Chapter 7. The person claiming the existence of a nonconforming use has the burden of proving with substantial evidence the elements required to substantiate a nonconforming use.

G. Alteration of a nonconforming use. An existing nonconforming use may be altered, *i.e.*, a change in the nature or extent of the use, through a Type III process. A request to alter a nonconforming use may be approved if the proponent demonstrates with substantial evidence all of the following:

1. That the current use, considering its nature and extent, is a lawful nonconforming use as defined above.
2. That the requested alteration will have no greater impact on the neighborhood than does the current nonconforming use, given its current nature and extent. The city council, at its discretion, may attach conditions reasonably calculated to ensure that the alteration will have no greater impact on the neighborhood.

#### **4.2 - Variances.**

A. Authorization to Grant or Deny Variances. The city council may approve a variance from a dimensional or other quantified or dimensional requirement of this ordinance. Use limitations are not eligible for variances nor may any mandatory requirement or prohibition in this ordinance. In granting a variance, the city may attach conditions which it finds necessary to limit deviations from the requirements of this ordinance and protect the rights of the surrounding property owners and best achieves the purposes of this ordinance.

B. Major variances. A major variance is any variance that does not qualify as a minor variance and may be decided by the city council pursuant a Type III process. A major variance may only be approved if all of the following criteria are met:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography or some other physical or natural aspect of the property, over which the owners of property have had no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as one enjoyed by the owners of other property in the same zone or vicinity.

3. The variance would not be materially detrimental to the purposes of the ordinance, or to the rights or uses of near-by property owners or otherwise conflict with any Comprehensive Plan goal or policy.

4. The magnitude of variance requested is the minimum necessary to alleviate the identified hardship.

C. Minor Variances. A minor variance is any request for relief of a dimensional or numeric requirement of this ordinance that is within 10% of the specified requirement and the variance would not be materially detrimental to the purposes of this ordinance, or to the rights or uses of near-by property owners or otherwise conflict with any Comprehensive Plan goal or policy. Staff shall rule upon a minor variance application using a Type II process under Chapter 7.

**4.3 - Authorization of Similar Uses.** The city planner may decide through a Type II process, whether a use not specifically listed as being allowed outright or conditionally, may nonetheless be allowed because it is similar in nature and impact to one of the uses allowed in the applicable zone. Any similar use so authorized must be similar to, or of the same type as, the uses allowed in the underlying district. This section does not allow the authorization of a use which is allowed in some other zone or one which is prohibited. Application for a similar use determination shall be made on the customary land use permit application form provided by the city and shall be processed according to the Type II procedure. The city planner may attach conditions which it finds necessary to limit deviations from the requirements of this ordinance and protect the rights of the surrounding property owners and best achieves the purposes of this ordinance.

**4.4 – Formal Code Interpretations.** In cases where there is uncertainty as to what is allowed, intended or meant by a particular provision of this ordinance, the Land Division Ordinance or the city’s Comprehensive Plan, an interpretation of the ambiguous provision may be made as part of a land use permit application. Where an interpretation is required but is not part of a permit application, the interested party may seek a formal interpretation by making application to the city. Where the interpretation requested involves the exercise of legal or policy discretion, the city shall process the request using a Type II procedure. This section does not allow the authorization of a use which is prohibited. If a use is listed as allowed in one zone, but not another, the use is assumed to be prohibited in those zones where it is not specifically allowed.

**4.5 – Modification to Prior Approvals.**

A. Major modification. Any application to modify a prior approval, or any conditions thereof, that qualifies as a “material deviation” as defined in Chapter 1 of this ordinance shall be processed according to the same procedure as would be required by this ordinance for the underlying approval.

B. Minor modification. Any modification to a prior approval or conditions thereof that does not qualify “material deviation” as defined above may be processed according to a Type II procedure.

**4.6. Permit Expiration and Extension.**

A. Expiration. All permits and other land use approvals granted pursuant to this ordinance or the Land Division Ordinance must be substantially implemented within 2 years of the date of approval, plus any time during which appeals were pending. If a permit has not been substantially implemented within that 2-year period and is not extended pursuant to this section, the permit or approval shall automatically expire and have no legally finding effect.

B. Extensions. A single 1-year extension to a permit or approval may be granted by the city planner prior to the expiration date if the applicant demonstrates that circumstances or conditions not known, or foreseeable, at the time of original application warrant the extension of the permit. The extension request must be received by the city before the expiration of the permit or approval.

**4.7 - Revocation of a Previously Approved Permit.** In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of permit approval or otherwise does not comply fully with the city's approval, the city may institute a revocation or modification proceeding under this section.

A. Situations When Permit Approvals May be Revoked or Modified. All quasi-judicial permits may be revoked or modified if the city council determines a substantial likelihood that any of the following situations exists:

1. One or more conditions of the approval have not been implemented or have been violated.
2. The activities of the use, or the use itself, are substantially different from what was approved.
3. If the use is subject to the nonconforming use regulations, the applicant has not obtained approval, and has substantially changed its activities or substantially increased the intensity of its operations since the use became nonconforming.

B. Process For Revocation and Modification. Revocation or modification shall be processed as a Type III decision. The city planner or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record that one or more of the situations set forth in the previous subsection exist.

C. Possible Actions at the Revocation Hearing. Depending on the situation the city council may take any of the actions described below. The city council may not approve the new use or a use that is more intense than originally approved unless the possibility of this change has been stated in the public notice. Uses or development which are alleged to have not fulfilled conditions, violate conditions, or the use is not consistent with the city's approval, may be subject to one or more of the following actions:

1. The city council may find that the use or development is complying with the conditions of approval. In this case, the use or development shall be allowed to continue.

2. The city council may modify the approval if it finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if certain conditions are met. In this case, the city council may modify the existing conditions, add new conditions to ensure compliance with the approval criteria, or refer the case to the city attorney for enforcement of the existing conditions.

3. The city council may revoke the approval if it finds there are substantial violations of conditions or failure to implement conditions of prior land use decisions, such that the original approval criteria for the use or development are not being met.

D. Effect of Revocation. In the event that the permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within 30 days of the date that the revocation final order is approved by the city council, unless the decision provides otherwise. In the event the city council's decision on a revocation request is appealed, the revocation action shall be stayed pending a final, unappealed decision.

**4.8 – Authority to Condition Permit Approvals.** The city has the authority to impose any reasonable conditions it deems to be necessary to ensure compliance with the approval criteria, including a limit on the duration of the permit, a periodic review process with the possibility of termination, or any reasonable limitation on physical or operational characteristics of the use. In the event that the approval criteria for any discretionary land use request cannot be met through the imposition of reasonable conditions, the request shall be denied.

## CHAPTER 5 CONDITIONAL USE PERMITS

### **Section:**

- 5.1 Purpose and Applicability
- 5.2 Site Plan
- 5.3 Approval Standards
- 5.4 Authority and Basis for Conditions
- 5.5 Change in Use or Conditions

### **5.1 – Purpose and Applicability.**

A. All proposals for development that propose a use listed as being conditionally allowed in the applicable zone are allowed through a Type II process as provided in Chapter 7. Applicants should look to the zoning regulations for the underlying zone to determine which uses are conditionally allowed. A conditional use may only be allowed if all of the approval standards in this Chapter are met. In addition, certain conditional uses are further limited by definition in Chapter 1 or special provisions in Chapter 3 (Supplemental Provisions).

B. It is assumed that any listed conditional use, in at least some form, is acceptable and allowed in the zone in which it is listed, but there are also assumed to be certain adverse impacts or characteristics inherent in a conditional use that require conditions to avoid, mitigate or eliminate those impacts. For listed conditional uses, the focus of the permitting process is to assess the likely impacts and the appropriate conditions of approval to avoid, mitigate or eliminate those impacts. Only where the impacts cannot be avoided, eliminated or mitigated to an acceptable degree, may the use be denied. Applicants must submit a site plan in accordance with this Chapter. Any conditions so imposed on a conditional use permit are considered to be legally binding and enforceable on the holder of the permit. Any violation of, or failure to comply with, those conditions will subject the property owner, permit holder, or person engaged in the use to enforcement and possible revocation of any permit. Where a use is not specifically listed as being conditionally allowed, the applicant may seek a similar use determination under Chapter 4 of this ordinance through a Type II process.

**5.2 – Site Plan.** All conditional use permit applications shall include a site plan which shall be drawn to scale and include the following information unless waived by the city planner:

- A. Dimensions and orientation of the parcel
- B. Locations and heights of buildings and structures, both existing and proposed (scaled elevation drawings or photographs may be required).
- C. Location and layout of vehicle and bicycle parking and loading facilities.

- D. Location of points of entry and exit for pedestrians, motor vehicles and internal circulation patterns, including bikeways and walkways.
- E. Location of existing and proposed walls and fences and indication of their height and materials
- F. Proposed location and size of exterior lighting.
- G. Proposed location and size of exterior signs.
- H. Site specific landscape plan including percentage of total net area.
- I. Location and species of trees greater than 6 inches in diameter when measured 4 feet above the ground and an indication of which trees to be removed.
- J. Contours mapped at 2-foot intervals. (5-foot contours may be allowed on steep slopes).
- K. Natural drainageways and direction.
- L. Other significant natural features.
- M. Legal description of the lot.
- N. Percentage of the lot covered by structures and impervious surfaces such as asphalt and concrete.
- O. Locations and dimensions of all easements and nature of the easements.
- P. Service areas for uses such as loading and delivery.
- Q. Grading and drainage plan.
- R. Other site elements which will assist in the evaluation of site development.
- S. A statement of operations shall accompany the site plan. A brief narrative on the nature of the activity, including:
  - 1. Number of employees
  - 2. Method of import and export
  - 3. Hours of operation including peak times
  - 4. Plans for future expansion

- T. Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property.
- U. Number and direction of lanes to be constructed on the driveway, plus striping plans.
- V. All planned transportation features (lanes, signals, bikeways, sidewalks, crosswalks, etc.).
- W. Internal pedestrian and bicycle facilities connect with external or planned facilities or system.
- X. Trip generation data or a traffic study, prepared by a licensed Professional Engineer specializing in transportation engineering, where the city planner determines that a traffic study is required.
- Y. Plat map showing property lines, rights-of-way, and ownership of abutting properties; and
- Z. A detailed description of any requested variance.

**5.3 - Approval Standards.** No conditional use permit shall be approved unless the applicant demonstrates compliance with, and provides substantial evidence that, the following standards are met:

- A. The use proposed is listed as a conditionally allowed use in the zoning regulations applicable to the subject property.
- B. The characteristics and location of the subject property are suitable to accommodate the proposed use, including availability and capacity of sanitary sewer, storm drainage facilities, water, transportation and pedestrian facilities.
- C. The proposed use will not have any unacceptable adverse impacts upon any use existing or allowed on any properties in the area and will not be materially detrimental to the health, safety, or general welfare of persons residing or working in the area. In making this determination, the city shall consider any possible conditions or limitations that may be placed on the use or activity so as to avoid or reduce impacts to the minimum practicable level and mitigate any impacts that cannot be avoided or minimized. The use may be subject to a periodic or annual review requirement to verify that impacts, in fact, have been eliminated or mitigated to an acceptable level.
- D. All needed public facilities including sewer, water, stormwater drainage and transportation are available to the subject property with adequate capacity to serve the proposed use.
- F. Approval of the proposed use does not conflict with any provision of the Comprehensive Plan, applicable city ordinance or regulations, nor any previously approved permit.

**5.4 – Authority and Basis for Conditions.** The city has the authority to impose any reasonable conditions it deems necessary to ensure compliance with the approval criteria, including any reasonable limitation on physical or operational characteristics of the use, such as those listed in this section. In the event that the approval criteria for any conditional use permit cannot be met through the imposition of reasonable conditions, the request shall be denied.

A. Natural Features. Where existing natural or topographic features are present, they shall be used to enhance the development; (*i.e.*, the use of small streams in the landscaping design, rather than culvert and fill).

B. Trees. Existing trees shall be left standing except where necessary for building placement, sun exposure, safety or other valid purpose. Vegetative buffers should be left along major streets or highways, or to separate adjacent uses.

C. Grading. Grading of a site shall take place only upon verification that, onsite surface drainage and on-site storage of surface water facilities be constructed when necessary, so there is no adverse effect on neighboring properties, public rights-of-way, or the public storm drainage system. Graded areas shall be replanted as soon as possible after construction to prevent erosion. A construction erosion control plan may be required.

D. Public Facilities. Adequate capacity of public facilities for water, sanitary sewers, storm drainage, fire protection, streets, and sidewalks shall be provided to the subject parcel. Development of on-site and off-site public facilities necessary to serve the proposed use shall be consistent with the Comprehensive Plan and any adopted public facilities plan(s). Underground utilities may be required. On-site detention or treatment of stormwater may be required. Where any required public facility is not available with adequate capacity to serve the property or proposed use, the permit may be denied or the applicant may be required to correct or pay for the correction of the deficiency or mitigate in some other way.

E. Traffic. The following traffic standards shall be applicable to all proposals. When evaluating traffic issues, consideration shall be given to the proposed usage (*i.e.*, employees, customers, freight, service) and to the potential types of traffic (*i.e.*, vehicles, pedestrians, bicycles).

1. On-site traffic circulation shall be designed according to accepted engineering guidelines to be safe and efficient.

2. The access point(s) between the subject property and public street shall be reasonably safe. Factors to be considered in evaluating the proposed access points include the average speed of the traffic on the public street(s), the proposed use of the access points, the distance between the existing and proposed access points and sight distance.

3. Access to all state highways may require a permit from ODOT. Access spacing and location shall address the Access Management Policies and standards of the Oregon



Highway Plan. Frontage improvements, such as curb and sidewalk to ADA standards, may be required by ODOT as a condition to access.

4. The applicant may be required to provide a traffic impact report prepared by an Oregon licensed Professional Engineer with experience in transportation engineering. The proposed use shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than 400 average daily vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding street system. The applicant shall be required to mitigate impacts attributable to the project. Dedication of land for streets, sidewalks, bikeways, paths, or accessways will be required where the existing transportation system, including sidewalks, will be impacted by or is inadequate to handle the additional burden caused by the proposed use. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use shall be required where the existing transportation system may be burdened by the proposed use.

5. All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.

6. Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.

7. The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

8. An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development, and open space, recreational and other community facilities associated with the development. Depending on proposed development, streets maybe required to have sidewalks on both sides. Pedestrian linkages shall also be provided to the peripheral street system.

9. Access shall be consistent with access management standards.

F. Storage. All outdoor storage areas, where allowed, and garbage collection areas shall be screened through the use of vegetative materials or appropriate fencing.

G. Equipment Storage. Design attention shall be given to the placement or storage of mechanical equipment so as to be screened from view and that an adequate sound buffer will be provided to meet the minimum noise requirements of OAR title 340 division 35 and any additional requirements adopted by the city council.

H. Compatibility - The height, bulk and scale of buildings shall be compatible with the site and the buildings in the vicinity. Use of materials shall promote harmony with surrounding structures and sites.

I. Design - Design in single or multiple projects shall be avoided. Variety of detail, form and siting shall be used to provide visual interest.

J. Orientation - Buildings shall have their orientation toward the street rather than the parking area. A main entrance shall be oriented to the street. For lots with more than two front yards, the building(s) shall be oriented to the two busiest streets.

K. Parking - Parking areas shall be located behind the buildings or on one or both sides.

L. Duration of the Permit – A limit on the duration of the permit and/or a periodic review process with the possibility of termination.

**5.5 – Change in Use or Conditions.** Any conditional use permit approved under this Chapter is specific and limited to the particular use described in the permit. The permit runs with the land and is not personal to the applicant. Changes to the use or conditions attached to the permit are not allowed without a new conditional use review, evaluation of impacts and consideration of appropriate conditions of approval.

## CHAPTER 6 PLANNED UNIT DEVELOPMENT

### **Section:**

- 6.1 Applicability of Planned Unit Development Regulations
- 6.2 Purpose for Planned Unit Development Regulations
- 6.3 Findings for Project Approval
- 6.4 Dimensional and Bulk Standards
- 6.5 Common Open Space
- 6.6 Design Standards
- 6.7 Accessory Uses in Planned Unit Development
- 6.8 Application Submission
- 6.9 Preliminary Development Plan
- 6.10 Approval of the Preliminary Development Plan
- 6.11 Approval of the Final Development Plan
- 6.12 Control of the Development After Completion

**6.1 - Applicability of Planned Unit Development Regulations.** The requirements for a planned unit development set forth in this Chapter are in addition to the conditional use procedures and standards of Chapter 5 of this ordinance.

**6.2 - Purpose for Planned Unit Development Regulations.** The planned unit development authorization serves to encourage developing as one project, tracts of land that are sufficiently large to allow a site design for a group of structures. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed. The planned approach is appropriate if it maintains compatibility with the surrounding area and creates an attractive, healthful, efficient and stable environment. It should either promote a harmonious variety or grouping of uses or utilize the economy of shared services and facilities. It is further the purpose of authorizing planned unit developments to take into account the advances in technology and design.

**6.3 - Findings for Project Approval.** The city council may approve a planned unit development if it finds that the planned unit development will satisfy standards of both Chapter 5 of this ordinance and this section and including the following:

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

**6.4 - Dimensional and Bulk Standards.** A tract of land to be developed as a planned unit development shall be of a configuration that is conducive to a planned unit development.

A. The minimum lot area, width and frontage requirements otherwise applying to individual building sites in the zone in which a planned unit development is proposed to not apply within a planned unit development. Minimum setbacks from the planned unit development exterior property lines as required by the zone will be maintained.

B. Buildings, off-street parking and loading facilities, open space, landscaping and screening shall provide protection to properties outside the boundary lines of the development comparable to that otherwise required of development in the zone.

C. The maximum building height shall, in no event, exceed 35 feet from original (pre-development) grade.

**6.5 - Common Open Space.** Land shown on the final development plan as common open space shall be conveyed to an association of owners or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the city council as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.

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

A. Private streets shall have a minimum improved width of 10 feet for each lane of traffic. On-street parking spaces shall be improved to provide an additional 8 feet of street width. Rolled curbs and gutters may be allowed.

B. Utilities shall be underground, designed and constructed to city standards at the direction of the city engineer.

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

A. Private park, lake or waterway

B. Recreation area

C. Recreation building, clubhouse or social hall

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

**6.8 - Application Submission.** An applicant shall include with the application for approval of a planned unit development a preliminary development plan as described in this section.

Applications for planned unit developments shall be processed through a Type III procedure as provided in Chapter 7 of this ordinance.

**6.9 - Preliminary Development Plan.** A preliminary development plan shall be prepared and shall include the following information:

- A. A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes.
- B. Areas proposed to be conveyed, dedicated or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings and similar public and semi-public uses.
- C. A plot plan for each building site and common open space area, showing the approximate location of buildings, structures and other improvements and indicating the open space around buildings and structures.
- D. Elevation and perspective drawings of proposed structures.
- E. A development schedule indicating:
  - 1. The approximate date when construction of the project can be expected to begin.
  - 2. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin. Buildings shall conform to the Uniform Building Code (UBC) as of date of issue of the building permit.
  - 3. The anticipated rate of development.
  - 4. The approximate dates when each stage in the development will be completed.
  - 5. The area, location and degree of development of common open space that will be provided at each stage.
- F. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open space areas.
- G. The following plans and diagrams:
  - 1. An off-street parking and loading plan.
  - 2. A circulation diagram indicating proposed movement of vehicles, goods and pedestrians within the planned unit development and to and from thoroughfares. Any special engineering features and traffic regulation devices shall be shown.
  - 3. A landscaping and tree plan.

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

1. A statement of the proposed financing.
2. A statement of the present ownership of all the land included within the planned unit development.
3. A general indication of the expected schedule of development.

**6.10 - Approval of the Preliminary Development Plan.** The approval of the preliminary development plan by the city council shall be binding on both the city and the applicant. However, no construction shall commence on the property until approval of the final development plan is granted.

**6.11 - Approval of the Final Development Plan.**

A. The final development plan shall be submitted to the city council within 6 months of the date of approval of the preliminary development plan. The city council may extend for up to 6 months the period for filing of the final development plan. After review, the city council shall approve the final development plan if it finds the plan is in accord with the approved preliminary development plan.

B. A material deviation from the approved preliminary development plan shall require the preliminary development plan to be reexamined by the city council.

C. Within 30 days after approval of the final development plan, the applicant shall file and record the approved final development plan with the Wasco County Clerk.

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

A. The building official may issue a certificate of completion of the planned unit development, shall note the issuance on the city's copy of the recorded final development plan.

B. After the certificate of completion has been issued, no change shall be made in development contrary to the approved final development plan without approval of an amendment to the plan except as follow:

1. Minor modifications of existing buildings or structures.
2. A building or structure that is totally or substantially destroyed may be reconstructed.

3. An amendment to a completed planned unit development may be approved if it is appropriate because of changes in conditions that have occurred since the final development plan was approved or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related use regulations. The procedure shall be as outlined in Chapter 7.

## CHAPTER 7 ADMINISTRATION AND PROCEDURES

### **Section:**

- 7.1 Purpose
- 7.2 Summary of the City’s Decision Making Process
- 7.3 Preapplication Conference Meeting
- 7.4 Application Requirements
- 7.5 Completeness Review and 120-Day Rule
- 7.6 Complete Application - Required Information
- 7.7 Public Notices
- 7.8 Quasi-Judicial Hearing Process
- 7.9 Conditions of Approval and Notice of Decision
- 7.10 Performance Guarantees
- 7.11 Covenant with the City
- 7.12 Ex Parte Contact, Conflict of Interest and Bias
- 7.13 Legislative Hearing Process
- 7.14 Objections to Procedure
- 7.15 Appeals
- 7.16 Expiration of Approval
- 7.17 Extension of an Approval
- 7.18 Reapplication Limited
- 7.19 Conformity of Permits
- 7.20 Reconsideration of a Final Decision
- 7.21 Transfer of Approval Rights
- 7.22 Fees.

**7.1 – Purpose.** This Chapter provides the procedures by which the City of Mosier reviews and decides upon applications for all permits relating to the use of land authorized by ORS Chapters 92, 197 and 227. These permits include all forms of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the City of Mosier Comprehensive Plan and the City of Mosier Zoning Ordinance. Any applicant may elect to consolidate applications for two or more related permits needed for a single development project.

**7.2 - Summary of the City’s Decision Making Process.** The following decision making processes chart shall control the city’s review of the indicated permits:



## Summary of Approval Procedures

Permit Type	I	II	III	IV
Partition w/out Creation of Accessway	X			
Subdivision & Partitions w/ Creation of Accessway			X	
Planned Unit Development (PUD)			X	
Final Plat	X			
Conditional Use Permit (CUP)		X		
Sign permit		X		
Major Variance			X	
Minor Variance		X		
Zone Change or Plan Amendment			X	X
Zone change Upon Annexation	X			
Similar Use Determination		X		
Nonconforming Use Verification			X	
Alteration/expansion of a Nonconforming Use		X	X	
Formal Code Interpretation		X		
Lot Line Adjustment or Abandonment	X			
Modification (material deviation) to a Prior Approval	X	X	X	X
Minor Modification (not a material deviation) to a Prior Approval		X		

A. Type I decisions are not permits and do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Type I decisions include partition and lot line adjustments, zone changes upon annexation, and final subdivision and planned unit development plan approvals where there are no material deviations from the approved preliminary plans. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decisions. The process requires no notice to any party other than the applicant. The city planner's decision is final and not appealable by any party through the normal land use process. Type I decisions may only be appealed through a writ of review proceeding to Circuit Court.

B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look and include preliminary subdivision plats, site plan review. Notice of application and an invitation to comment is mailed to the applicant and property owners within 100 feet. The city planner accepts comments for 14 days and renders a decision. The city planner's decision is appealable to the city council by any party with standing (*i.e.*, the applicant or any party who submitted comments during the 14-day period). The city council's decision is the city's final decision and is appealable to LUBA within 21 days of when it becomes final.

C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards and are required to be heard by the city council. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations, quasi-judicial zone change and

comprehensive plan amendments. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the city council hearing is published and mailed to the applicant and property owners within 100 feet. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. At the evidentiary hearing held before city council all issues are addressed. The city council's decision is the city's final decision and is appealable to LUBA.

D. Type IV decisions include only legislative plan amendments and zone changes . These applications involve the greatest amount of discretion and evaluation of subjective approval standards, and must be heard by the city council for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and city council hearing is published and mailed to the applicant and property owners within 100 feet. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. All issues are addressed by the city council at the evidentiary hearing. If the city council denies the application, any party with standing (*i.e.*, anyone who appeared before the city council either in person or in writing) may appeal city council's denial to LUBA. Any review by the city council is on the record, and only issues raised before the city council may be raised on appeal to LUBA. The city council's decision is the city's final decision and is appealable to LUBA.

**7.3 - Preapplication Conference Meeting.** Prior to submitting an application for any form of permit, the applicant shall schedule and attend a pre-application conference with city planner to discuss the proposal, unless, in the city planner's opinion, the pre-application conference is not warranted. To schedule a pre-application conference, the applicant shall contact the city planner and pay the appropriate conference fee. The purpose of the pre-application conference is to provide city staff with a summary of the applicant's development proposal and an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The city planner shall provide the applicant with a written summary of the pre-application conference.

**7.4 - Application Requirements.** All permit applications must be submitted to the city recorder on the most current form provided by the city, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be, met.

**7.5 - Completeness Review and 120-Day Rule.** Upon submission, the city recorder shall date stamp the application form and verify that the appropriate application fee has been included. The city planner will then review the application and all information submitted with it and evaluate whether the application is complete enough to process. If the application is not complete to process, the city planner shall notify the applicant and identify what information must be submitted to make the application complete.

A. Once the city planner determines the application is complete enough to process, or the applicant refuses to submit any more information, the city shall declare the application complete

and take final action on the application within 120 days of that date unless the applicant waives or extends the 120-day period. The 120-day clock, however, will be suspended or inapplicable in the following situations:

1. For the duration of any continuance or other process delay requested by the applicant.
2. The 120-day period does not apply to any application for a permit that is not wholly within the city's authority and control.
3. The 120-day period does not apply to any application for an amendment to the city's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.
4. In the event the applicant amends, supplements or changes the application so fundamentally that, in the city planner's opinion, the application amounts to a new or different proposal. In these instances, the 120-day clock will be suspended or restarted as warranted.

B. The approval standards which control the city's review and decision on a complete application are those which were in effect on the date the application was first submitted.

**7.6 - Complete Application - Required Information.** A complete application includes all the materials listed in this subsection. The city planner may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within 30 days of when the application is first submitted, the city planner may require additional information beyond that listed in this subsection, such as a traffic study or other report prepared by an appropriate expert. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the city planner will not deem the application complete until all information required has been submitted. At a minimum, the applicant must submit one copy of a completed city application form that includes the following information:

- A. An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.
- B. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s). If the applicant is different than the owner, then a complete application shall also include a written and signed statement from all recorded property owners that the applicant is authorized to apply for the proposed development.
- C. A complete list of the permit approvals sought by the applicant.
- D. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands,

steep slopes and other natural features, a discussion of the approval criteria for all permits required to approve the development proposal and which explains how the criteria are or can be met, and any other information indicated by staff at the pre-application conference as being required.

E. Where a site plan is involved, the city planner may require the applicant to submit up to 5 copies of the site plan or related drawings. At least one copy of the site plan and all related drawings shall be in a readable/legible 8½ by 11 inch format.

F. Any other information or document that the city planner has identified as being necessary before the application can be reviewed.

G. All required application fees.

**7.7 - Public Notices.** All public notices issued by the city with regard to a land use matter, announcing applications or public hearings of quasi-judicial or legislative actions shall comply with the requirements of this section. Current county property tax records shall be deemed an acceptable source of names and addresses of the surrounding property owners. In any event, so long as a good faith attempt was made to obtain the current names and addresses and notices were sent to those to whom notice is required by this section, then any defects in notice shall not invalidate any final decision rendered.

A. Notice of Type II applications - Once the city planner has deemed a Type II application complete, the she shall prepare and send notice of the application, by first class mail, to all record owners of property within 100 feet of the subject property. The city's Type II notice shall include the following information:

1. Name and mailing address of the applicant, and street address or other easily understood location of the subject property.
2. A description of the applicant's proposal, along with citations of the approval criteria that the city will use to evaluate the proposal.
3. A statement that any interested party may submit to the city written comments on the application during a 14-day comment period prior to the city's deciding the application, along with instructions on where to send the comments and the deadline of the 14-day comment period.
4. A statement that any issue which is intended to provide a basis for an appeal to city council or the Land Use Board of Appeals must be raised in writing during the 14-day comment period with sufficient specificity to enable the city to respond to the issue.
5. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge, and that copies may be obtained at a reasonable cost at city Hall during normal business hours.

6. The name and telephone number of the city planner responsible for the application or otherwise available to answer questions about the application.

B. Notice of public hearing on a Type III application (a quasi-judicial application) - Notice for all public hearings concerning a quasi-judicial application shall conform to the requirements of this subsection. At least 20 days prior to the hearing, the city planner shall prepare and send, by first class mail, notice of the hearing to all record owners of property within 100 feet of the subject property. The city shall also publish the notice in a newspaper of general circulation within the city at least 20 days prior to the hearing. Notice of the application hearing shall include the following information:

1. The time, date and location of the public hearing.
2. Name and mailing address of the applicant, and a street address or other easily understood location of the subject property;
3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the city will use to evaluate the proposal.
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing, and that a staff report will be prepared and made available to the public at least 7 days prior to the hearing.
5. A statement that any issue which is intended to provide a basis for an appeal to the city council or the Land Use Board of Appeals must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue.
6. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge, and that copies may be obtained at a reasonable cost, at city Hall during normal business hours.
7. The name and telephone number of the city planner responsible for the application or otherwise available to answer questions about the application.

C. Notice of public hearing on a Type IV application (a legislative proposal) - At least 20 days prior to a public hearing at which a legislative proposal to amend or adopt the city's land use regulations or Comprehensive Plan is to be considered, the city recorder in coordination with the city planner shall issue a public notice that conforms to the requirements of this subsection. Notice shall be sent to affected governmental entities, special districts, providers of urban services, including Oregon Department of Transportation and any party who has requested in writing such notice. Notice shall also be published in a newspaper of general circulation within the city. Notice issued under this subsection shall include the following information:

1. The time, date and location of the public hearing.

2. The title of the proposal.
3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed, including a description of the geographic range, area or location of the land that will be affected by the proposal.
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing.
5. The name and telephone number of the city planner responsible for the proposal and who interested people may contact for further information.
6. A statement that failure of any person entitled to notice under this subsection to receive notice shall not invalidate the action, provided that the city can demonstrate by certificate of mailing that such notice was sent.

**7.8 - Quasi-Judicial Hearing Process.** All public hearings pertaining to quasi-judicial permits, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this Chapter shall comply with the Oregon Public Meetings Laws, the applicable provisions of ORS 197.763 and any other applicable law.

- A. Notice of the hearing shall be issued at least 20 days prior to the hearing in accordance with Section 7.7 of this ordinance.
- B. The city planner shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria, and makes a recommendation as to whether each of the approval criteria are met. The staff report shall be made available to the public for inspection and copying at least 7 days prior to the scheduled hearing.
- C. At the beginning of the initial public hearing for any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:
  1. That the hearing will proceed in the following general order: Staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, applicant's rebuttal, record closes, city council deliberation and decision.
  2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open.

3. Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to allow the city and all parties to respond to the issue, will preclude appeal on that issue to the Land Use Board of Appeals.
4. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city to respond to the issue precludes an action for damages in circuit court
5. Any party wishing a continuance or to keep open the record must make that request while the record is still open.
6. That the mayor shall call for any ex parte contacts, conflicts of interest or bias before the beginning of each hearing.

D. Requests for Continuances and to Keep Open the Record. The city council may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as the city council establishes a time certain and location for the continued hearing. Similarly the city council may close the hearing but keep open the record for the submission of additional written material or other documents and exhibits. The city council may limit the factual and legal issues that may be addressed in any continued hearing or during an open-record period.

#### **7.9 - Conditions of Approval and Notice of Decision.**

A. All city decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be, met.

B. Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting enforcement proceedings under the applicable city ordinance or ORS 30.315.

C. Notice of Decision. The city shall send, by first class mail, a notice of all decisions rendered under this Chapter to all persons with standing (*i.e.*, the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision). The notice of decision shall include the following information:

1. The date of decision.
2. The name of the applicant, owner and appellant (if different).
3. The street address or other easily understood location of the subject property.
4. A brief summary of the decision, and if an approval, a description of the development that was approved.

5. A statement that the decision is final unless appealed, and a description of the requirements for perfecting an appeal.

6. The contact person, address and telephone number whereby a copy of the final decision may be inspected or copies obtained.

D. Modification of Conditions. Any request to modify a condition of permit approval shall be processed in the same manner, and shall be subject to the same standards, as was the original application. However, the city council may consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

**7.10 - Performance Guarantees.** When conditions of permit approval require the applicant to construct certain improvements, the city may allow the applicant to submit a financial guarantee in lieu of actual construction of the improvement. Financial guarantees shall be governed by this section.

A. Form of Guarantee. Guarantees shall be in a form approved by the city attorney, including an irrevocable stand-by letter of credit issued by a recognized lending institution to the benefit of the city, a certified check, dedicated bank account or allocation of a construction loan held in reserve by the lending institution for the benefit of the city. The guarantee shall be filed with the city recorder.

B. Amount of Guarantee. The amount of the performance guarantee shall be equal to at least 110 % of that estimated cost of constructing the improvement in question. The amount of the performance guarantee may be larger than 110 % if deemed necessary by the city engineer. The cost estimate substantiating the amount of the guarantee must be provided by the applicant supported by either an engineer's or architect's estimate or written estimates by three contractors with their names and addresses. The estimates shall separately itemize all materials, labor, and other costs.

C. Duration of the Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the city. Once the city has inspected and accepted the improvement, the city shall release the guarantee to the applicant. If the improvement is not completed to the city's satisfaction within the time limits specified in the permit approval or the guarantee, the city council may direct the city attorney to draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the city. Once constructed and approved by the city, any remaining funds shall be refunded to the applicant.

D. If the applicant elects to defer construction of improvements by using a financial guarantee, the applicant shall agree to construct those improvements upon written notification by the city, or at some other mutually agreed to time. If the applicant fails to commence construction of the required improvements within 6 months of being instructed to do so, the city



may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in paragraph C above.

### **7.11 - Covenant with the City.**

A. The city may impose as a condition of final approval of a quasi-judicial permit, the requirement that the applicant execute a covenant with the city agreeing to comply with all conditions of approval. Any such covenant shall include the following elements:

1. An agreement that the applicant will comply with all applicable code requirements, conditions of approval and any representations made to the city by the applicant or the applicant's agents during the application review process, either orally or in writing. This commitment shall be binding on the applicant and all the applicant's successors, heirs and assigns.
2. If the owner fails to perform under the covenant, the city may immediately institute revocation of the approval or any other enforcement action available under state law or the municipal code. The covenant may also provide for payment of attorney fees and other costs associated with any such enforcement action.
3. Where the development rights of one site are dependent on the performance of conditions by the owner of another property (such as joint access), the covenants are judicially enforceable by the owner of one site against the owner of another.

B. Adopting the Covenant. The form of all covenants shall be approved by the city attorney. The covenant shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the city recorder. Recording shall be at the applicant's expense. Any covenant required under this section shall be properly signed and executed within 30 days after permit approval with conditions; provided, however, that the city attorney may grant reasonable extensions, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the covenant within the prescribed period shall require a new application for any use of the subject property.

**7.12 - Ex Parte Contact, Conflict of Interest and Bias.** The following rules shall govern any challenges to a decision maker's participation in a quasi-judicial or legislative action:

A. Ex parte Contacts. Any factual information obtained by a decision maker outside the context of a quasi-judicial hearing shall be deemed an ex parte contact. Prior to the close of the record in any particular matter, any decision maker that has obtained any material factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This rule does not apply to legislative proceedings.

B. Conflict of Interest. Whenever a decision maker, or any member of a decision maker's immediate family or household, has a financial interest in the outcome of a particular quasi-

judicial or legislative matter, that decision maker shall not participate in the deliberation or decision on that matter.

C. Bias. All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record. Any decision maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This rule does not apply to legislative proceedings.

### **7.13 - Legislative Hearing Process.**

A. Purpose. Legislative actions involve the adoption or amendment of land use regulations, Comprehensive Plan, map inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the city council.

B. city Council Review:

1. Hearing Required. The city council shall hold at least one public hearing before taking action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The city recorder, in coordination with the city planner, shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

2. City Planner's Report. Once the city council's hearing has been scheduled and noticed in accordance with the Type IV notice procedures and any other applicable laws, the city planner shall prepare and make available a report on the legislative proposal at least 7 days prior to the hearing.

3. City Council Decision. The city council shall adopt a written decision on the proposal. The city council's decision is appealable to the Land Use Board of Appeals (LUBA) or the Land Conservation and Development Commission (LCDC), as provided by state law.

**7.14 - Objections to Procedure.** Any party who objects to the procedure followed in any particular matter, including bias, conflict of interest and undisclosed ex parte contact, must make a procedural objection prior to the city council's rendering a final decision. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived. In making a procedural objection, the objecting party must identify with particularity the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights.

**7.15 - Appeals.** Appeals of any action or decision by the city planner are heard by the city council and must comply with the requirements of this section. Any decision by the city council is appealable, if at all, to the Land Use Board of Appeals (LUBA) or the Land Conservation and Development Commission (LCDC), as provided by state law.

- A. Type I decisions by the city planner are not appealable to the city council.
- B. A written Notice of Appeal of a Type II decision by the city planner must be received by the city recorder within 10 calendar days from the date notice of the challenged decision is provided to those entitled to notice. If the city's Notice of Decision is mailed, any appeal must be received by the city recorder within 14 calendar days from the date the challenged decision was placed in the mail. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
- C. The following must be included as part of the Notice of Appeal:
1. The date the decision to be appealed was rendered.
  2. The name, mailing address and daytime telephone number for each appellant.
  3. A statement of how the appellant has an interest in the matter and standing to appeal.
  4. A statement of the specific grounds for the appeal.
  5. The appropriate appeal fee. Failure to include or otherwise provide the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
- D. Standing to Appeal. For Type II decisions, only those persons who submitted written comments within the 14-day comment period have standing to appeal a city planner's decision. Grounds for appeal are limited to those issues raised in writing during the 14-day comment period.
- E. Notice of the Appeal Hearing. The city recorder shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record in accordance with Chapter 7. Notice of the appeal hearing shall contain the following information:
1. The date of the decision being appealed.
  2. The time, date and location of the public hearing.
  3. The name of the applicant, owner and appellant (if different).
  4. The street address or other easily understood location of the subject property.
  5. A description of the permit requested and the applicant's development proposal.
  6. A brief summary of the decision being appealed and the grounds for appeal listed in the Notice of Appeal.

7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal.

8. A general explanation of the requirements for participation and the city's hearing procedures.

F. Appeal Hearing, Scope of Review. Appeal hearings shall comply with the procedural requirements of this Chapter for the appropriate Type of process. Appeal hearings conducted by the city council shall be on the record, and the issues under consideration shall be limited to those listed in the Notice of Appeal.

### **7.16 - Expiration of Approval.**

A. When Approvals Become Void. All quasi-judicial permit approvals, except for zoning map or comprehensive plan map amendments, automatically expire and become void if any of the following events occur:

1. If, within one year of the date of the final decision, a building permit has not been issued; or
2. If, within one year of the date of the final decision the activity approved in the permit has not commenced. In situations involving only the creation of lots, the final plat must have been approved and recorded within one year of preliminary plat approval.

B. New Application Required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright. If a new application is filed, approval or denial shall be controlled by the standards in effect at the time the new application is submitted.

### **7.17 - Extension of an Approval.**

A. The city planner may extend, prior to its expiration, any approved permit for a period of 6 months up to an aggregate period of one year; provided, however, that there has been substantial implementation of the permit. Any request for an extension shall be reviewed and decided upon by the city planner as a Type II decision.

B. Substantial implementation of a permit shall require at a minimum, for each extension requested, demonstrable evidence showing:

1. The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit.
2. Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder.

3. The request for an extension is not sought for purposes of avoiding any responsibility imposed by this code or the permit or any condition there under.
4. There have been no changes in circumstances or the law likely to necessitate significant modifications of the development approval of conditions of approval.

C. Extension of the Expiration Period Due to Appeals. If a permit decision is appealed beyond the jurisdiction of the city, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the city. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date after which an appeal may no longer be filed).

**7.18 - Reapplication Limited.** If an application is denied no reapplication for the same or substantially similar proposal may be made for one year following the date of final decision denying the permit.

**7.19 - Conformity of Permits.** The city shall not accept any application for a permit, certificate or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of the Mosier Zoning Ordinance, Land Division Ordinance, and any permit approvals previously issued by the city.

**7.20 - Reconsideration of a Final Decision.** Under this section, parties with standing may seek reconsideration of a final decision rendered pursuant to a Type I, II, III or IV process. Reconsideration is warranted where the city's decision indicates the decision maker failed to understand or consider certain relevant facts or misinterpreted the application in some material way. Any request for reconsideration must be received by the city recorder within 10 days of when the decision in question was rendered and must specifically describe the alleged misunderstanding or misinterpretation. A request for reconsideration shall not stay the effectiveness of the city's final decision, nor shall it affect any applicable appeal deadlines to the Land Use Board of Appeals. If the request is granted, the city recorder shall notify all affected parties that the decision will be reconsidered. If the reconsideration is based on new evidence or information all parties with standing shall have the opportunity to review and comment on the new evidence or information. Any request for reconsideration by the applicant shall be deemed a waiver of the 120-day deadline. Notwithstanding anything in this Chapter, the city council may on its own motion withdraw a previously final decision for reconsideration at any time.

**7.21 - Transfer of Permits or Approval Rights.** Unless otherwise stated in the city's permit decision, any permit or approval granted under this ordinance runs with the land and is transferred with ownership of the land. Land use approvals and permits are not personal to the applicant. Any conditions, time limits or other restrictions imposed with a permit approval shall bind all subsequent owners and users of the property for which the permit was granted.

**7.22 - Fees.** The city may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals. Fees shall be based upon the city's actual or average cost of processing the application or conducting the appeal process. The only exception shall be the

appeal fee for Type II decisions shall be limited by ORS 227.175(10)(b). The requirements of this section shall govern the payment, refund and reimbursement of fees.

A. Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.

B. Refunds. Fees will only be refunded as provided in this subsection:

1. When a fee is paid for an application which is later found not to be required, the city shall refund the fee.

2. Errors. When an error is made in calculating a fee, overpayments will be refunded.

3. Withdrawals. In the event an applicant withdraws an application, the city recorder shall refund the unused portion of the fee. In this case, the city recorder will deduct from the fee the city's actual costs incurred in processing the application prior to withdrawal.

C. Fee Waivers. The city council may waive all or any portion of an application or appeal fee if, it is determined that an application must be submitted or resubmitted because of an error made by the city.

D. Applicant's Deposit for City Administrative Costs. The City of Mosier, like many cities in Oregon, is faced with a severely reduced budget for administration of the city's ordinances. The land use planning process in the State of Oregon has become increasingly complex and lengthy. To properly process a land use application, the city must rely upon professional consultants to assist in preparing the legal notices, conducting on-site inspections, preparation of staff reports and, in some cases, actual attendance at the city council meeting. The city uses consultants to ensure land use applications are processed fairly and promptly. Because of the city's limited budget, the city council finds it necessary to transfer those administrative costs to the applicant, as a part of the land use planning process. The city's consultants will be responsible for providing a bill to the city on at least a monthly basis that itemizes all time and materials devoted to each particular permit project. The city will then present these bills to the applicant who benefited from the work for payment. Payment for the consultant's bill shall either come from the applicant's deposit or the applicant shall pay the consultant's bill to the city within 30 days. An applicant's failure to pay these billing statements is grounds for the city's suspension of work on a permit application and withholding any permit until all amounts due are paid in full.

## CHAPTER 8 SIGN CODE

### **Sections:**

- 8.1 Purpose, Scope and Definitions
- 8.2 Permit Required
- 8.3 Variances
- 8.4 Prohibited Signs
- 8.5 Signs Not Requiring a Permit
- 8.6 Signs in Residential Zones
- 8.7 Signs in Commercial and Industrial Zones
- 8.8 Lighting of Exterior Signs
- 8.9 Conflict and Severability
- 8.10 Violation and Penalty

**8.1 – Purpose, Scope and Definitions.** This Chapter regulates the erection placement and maintenance of signs to protect and enhance public health, safety, welfare and property, more specifically to:

- A. **Purpose.** The purposes of this sign code are:
  - 1. Allow those signs compatible with the character and uses allowed in the zoning district in which they are located.
  - 2. Maintain the effectiveness of traffic signs.
  - 3. Prohibit certain signs or portions thereof, which conflict with the safe movement of people and emergency services, constitute a public nuisance or hazard, are of unsafe construction, or which demand attention by their dominating size or appearance of motion.
  - 4. Maintain and enhance the scenic and other aesthetic qualities of the city.
- B. **Scope.** All signs, including sign structures and display areas or building walls with lettering on them shall be erected and maintained only as provided by this Chapter, except for the following:
  - 1. Signs not visible from either a public right-of-way or property under different ownership, provided such signs shall be erected and maintained in accordance with applicable law.
  - 2. Signs owned and maintained by governmental agencies.

3. Signs inside a building, except for strobe lights or floating lights visible from a public right-of-way, private road or other private property.
4. Signs carved into or part of materials which are an integral part of a building.

C. Definitions. The following definitions shall control the interpretation of this Chapter, in addition to the definitions in Chapter 1:

1. “Abandoned Sign” means a sign that does not have copy on the display surface for a period of 6 months or more, including an obsolete sign.
2. “Billboard” means a sign with a display surface area of 200 sq. ft. or more.
3. “Display Surface Area” means the total area of a sign that is available for displaying advertising or an informational message, subject to the provisions of this Chapter.
4. “Erect” or “erected” means to construct, build, assemble, alter, place, affix, attach, create, recreate, paint, draw or in any way bring into being or establish.
5. “Free-standing sign” means a sign supported from the ground by its own structure.
6. “Fence” and “fencing” mean any barrier or section thereof, other than a wall, designed to delimit a boundary or provide a visual screen.
7. “Frontage” means the continuous distance along one public street right-of-way line of one property.
8. “Grade” means the level of the nearest sidewalk or road pavement.
9. “Incidental sign” means a sign identifying or advertising associated goods, products, services or facilities available on the premises, including but not limited to, trading stamps, credit cards accepted, brand names or price signs.
10. “Maintain,” “maintained” or “maintaining” mean activities, such as upkeep and repair of signs or sign structures and the replacement of sign messages or advertisement displayed on a sign, and an activity by which a sign or sign structure are permitted to exist.
11. “Natural materials” means wood, stone, brick and rock or any combination thereof.
12. “Obsolete sign” means a sign for which there is no current city sign permit.
13. “Premises” means a lot or number of lots on which are situated a business, or a building or group of buildings designed as a unit.



14. "Projecting sign" means a sign projecting more than one foot from the wall of a building.
15. "Roof sign" means a sign erected or maintained wholly upon or over the roof of any building with the principal support on the roof structure.
16. "Sign" means any sign, display message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is designed, used or intended for advertising purposes or to inform or attract the attention of the public, and the term includes the sign structure, display surface and all other component parts of a sign; when dimensions of a sign are specified, the term includes panels and frames; and the term includes both sides of a sign of specified dimensions or display surface area.
17. "Sign face" means the total of display surface area visible from one side of a sign.
18. "Temporary sign" means a sign that will become obsolete after the occurrence of an event or series of events. Temporary signs include, but are not limited to, for sale and lease signs, garage sale signs and political campaign signs.
19. "Traffic control sign or device" means an official route marker, guide sign, warning sign or sign directing or regulating traffic or pedestrians which has been erected by or under order of the City of Mosier, the state or federal governments.
20. "Wall" means a vertical masonry structure.
21. "Wall Sign" means a sign erected on a wall

## **8.2 – Permit Required**

- A. Permit Required. No sign shall be erected or maintained except as provided by this Chapter and for which a permit has been issued by the city planner. This permit requirement applies to all signs, except those specifically exempt by a provision of this Chapter and signs existing on the date of adoption of the ordinance.
- B. Process. Permits under this Chapter shall be processed as Type II decisions as prescribed in Chapter 7.
- C. Modifications to Existing Signs: Any sign which is structurally altered, relocated or replaced shall be brought into compliance with all applicable provisions of this Chapter. Any modification to a sign for which a permit has been issued shall be processed as a Type II decision in the same manner as for a new sign.
- D. Permit Application. Application for a sign permit shall be made in writing upon forms furnished by the city recorder. A permit application fee shall accompany the application for it to be processed by the city planner. The amount of the fee shall be according to a permit fee schedule adopted by resolution of the city council. The application shall

include all plans and information necessary to establish that the proposed sign complies with all applicable requirements of this Chapter and applicable buildings, structural and life safety codes. The permit shall be valid if the sign is erected and maintained in compliance with the permit, the requirements of this Chapter, and if the applicant did not misrepresent or falsify any information supplied in the application. Any permit issued under this Chapter shall be void if no substantial physical action is taken, in accordance with any conditions of the permit and the applicable requirements of this Chapter, within 90 days following the date of its issuance. Any permit issued under this Chapter shall remain in effect as long as the sign is maintained in compliance with any permit conditions and all applicable provisions of this Chapter.

### **8.3 - Variances**

- A. Grounds for Variance. Upon application by an applicant, the city council may grant a specific variance from provisions of this Chapter provided all of the requirements of this section are met. The variance provisions in Chapter 4 do not apply to sign code variances:
1. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same area or vicinity. Such conditions may be the result of an unusual location or orientation of the applicant's building, topography, vegetation or other circumstance over which the applicant has no control.
  2. The variance is necessary for the preservation of a right of the applicant substantially the same as is possessed by the owners of other property in the area or vicinity.
  3. The authorization of the requested variance will not be materially detrimental to, or conflict with, the purposes of this Chapter or be injurious to the use and enjoyment of other property in the area or vicinity, or the public way, in which the property is located.
  4. The variance requested is the minimum variance necessary, to alleviate the identified hardship.
- B. Variance Fee. At the time of application for variance from the provisions of this Chapter, the applicant shall pay a fee in accordance with the fee schedule established and amended from time to time by the city council and on file with the city recorder.
- C. Procedure. Any variance sought to the requirements of the sign code shall be processed as a Type II decision and in conjunction with the underlying sign permit application.

**8.4 – Prohibited Signs.** It is unlawful for the following signs to be erected or to be maintained except as otherwise provided in this Chapter:

- A. Billboards
- B. A sign that interferes in any way with a traffic control sign or device or prevents clear and unobstructed view of official traffic control signs or devices or approaching or merging traffic (sight distance).
- C. A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts. This subsection does not apply to traffic control signs or devices.
- D. A sign with lighting which shines beams or rays of light directly on any portion of the main traveled right-of-way of a public street, or is of such high intensity or brilliance as to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operations thereof.
- E. A sign located on a tree, or which is painted or drawn upon a natural feature.
- F. An obsolete sign.
- G. A sign that obstructs free ingress to or egress from any door, window or fire escape, alley, drive or fire lane, or is attached to a fire escape.
- H. A sign erected or maintained on public property or within the public right-of-way without permission of the public body having jurisdiction.
- I. A sign not able to withstand a wind pressure of 20 pounds per sf. of exposed surface, or is insecurely erected, or is constructed so as to constitute a fire hazard.
- J. A sign not maintained in a safe, neat, clean and attractive condition and in good repair.
- K. Any sign larger than 4 sf. on an undeveloped lot or parcel of property.
- L. A sign not otherwise in compliance with any provision of this code, Oregon law or the terms and conditions of any valid sign permit issued under this Chapter.
- M. Signs on fences or fencing.
- N. Roof signs.

**8.5 – Signs Not Requiring a Permit.** In any zoning district, the following signs may be erected and maintained without a permit, so long as they comply with all applicable provisions of this Chapter and are not illuminated:

- A. One temporary sign per street frontage of property under a single ownership provided such a sign does not cause a public safety hazard or nuisance, has no more than two faces, and that no sign face exceeds 4 sf. in area.

- B. Signs carved into a building or which are part of materials that are an integral part of the building not exceeding 10 sf. in area. This subsection does not include signs painted on sides of buildings.
- C. A single sign where the display surface area does not exceed 2 sf.
- D. Window signs situated on the indoor-side of a window or door.
- E. Flags, limited to two per premises.
- F. Signs attached to, or carried by, a person.
- G. Signs required by law or legal action, including but not limited to, signs warning of hazardous or dangerous conditions on a premises and land use application and hearing notice signs.

#### **8.6 – Signs in Residential Zones**

- A. Signs Allowed. In the R-5 and R-10 zoning districts, the following signs are allowed:
  1. All signs that are allowed without permit as provided by this Chapter so long as the requirements of this section are met.
  2. Permitted signs so long as a permit is first obtained as required by this Chapter, and the requirements of this section are met.
- B. Display Requirements. All signs in the residential zones listed in this section must comply with the following requirements:
  1. Not more than one wall sign or free-standing sign to be visible from each frontage, with no more than three frontages. Wall signs shall be measured by the outer limits of the lettering, illustration or other display.
  2. Maximum 4 sf. of area per sign face.
  3. Five feet maximum height above grade.
  4. Primarily constructed of natural materials.
  5. Sign shall be setback from the street as determined by the city planner, but not more than 10 feet from the street right-of-way.
  6. If illuminated, the source of illumination shall be external to the sign and directed or shielded so as to not shine directly onto any neighboring structure.

## 8.7 – Signs in Commercial and Industrial Zones

Signs Allowed. In the C and I zoning districts, the following signs are allowed:

1. All signs allowed without permit as provided by this Chapter so long as the requirements of this section are met.
2. Wall signs, so long as a permit is first obtained as required by this Chapter and the display surface area is no larger than 20 sf.
3. Free-standing signs, so long as a permit is first obtained as required by this Chapter and the following standards are met:
  - a. Number. One free-standing sign shall be permitted for each street frontage of a premises, provided minimum lot frontage of 25 feet is met. Free-standing signs on the same premises but on different frontages shall be separated by a minimum of 50 feet.
  - b. Area. Maximum area is 12 sf.
  - c. Projection. Free-standing signs shall not project into or over a public right-of-way.
  - d. Height. The height of any free-standing sign shall not exceed 12 feet above grade.
4. Projecting Signs. Projecting signs are allowed so long as a permit is first obtained as required by this Chapter and the following standards are met:
  - a. Number. One projecting sign may be permitted for each business frontage. No projecting signs shall be permitted for the same business frontage where there is a free-standing sign.
  - b. Area. Sign area shall not exceed 8 sf. per sign face, with total area of all sign faces not to exceed 16 sf.
  - c. Projection. Maximum projection from a building wall shall be 4 feet. No sign shall project any closer than 2 feet from the curb line.
  - d. Vertical Dimension. The greatest vertical dimension of a projecting sign shall not exceed 4 feet; provided, however, for any reduction in projection, the sign may be increased in height a like distance. The maximum vertical projection of the sign shall not exceed the height of the wall which the sign is erected upon. The visible supporting structure shall be minimized to the greatest extent possible consistent with safe structural support.

- e. Clearance. A minimum clearance of 10 feet from grade shall be maintained over pedestrian or vehicular areas, 14 feet over areas of truck access.
  - f. Separation. The minimum distance from another projection signs shall be 20 feet in the same horizontal plane.
  - g. Projecting Signs on Other Project Structures: awnings, marquees, canopies, false fronts and wall extensions, safety constructed and approved by the Building Code Official, may not extend beyond the limits for projecting signs. Projecting signs on such structure, shall not exceed the limits as to number, area, projection, vertical dimension, clearance and separation as provided for any projecting sign. The only exception shall be for those instances in which a projecting structure would prohibit a projecting sign within sight of pedestrians, in these instances, the clearance under the marquee or other permanent structure may be reduced to 8 feet.
5. Incidental Signs. One additional sign is allowed per premises, so long as a permit is first obtained under this Chapter. An incidental sign may be a free-standing or wall sign, but in either case, shall meet all provisions for such signs, excepting area. The surface display area of an incidental sign shall not exceed 6 sf.
  6. Portable Signs. A-frame signs, sandwich boards, tent signs, streamers, strings of lights, balloons, hulas, banners or pennants, excepting traditional holiday decorations.
  7. Community Signs.

**8.8 – Lighting of Exterior Signs** Businesses open to the public during hours of darkness shall be allowed limited exterior lighting to enable patrons to find and identify the business. These lights shall be turned off when the business is closed each evening.

- A. Number. One per 3 sf. of sign area, or one for each side of a double-faced hanging sign.
- B. Design and mounting.
  1. Small, bullet-type fixtures painted to match surroundings.
  2. Mounted to nearby building element (wall, eave, post, etc.) or incorporated into support bracket.
  3. Architecturally compatible with building or mounted to be recessed or shielded or otherwise not readily visible to pedestrians.

4. Aimed directly toward sign but not toward eye level of pedestrian or vehicle traffic.

**8.9 – Conflict and Severability** In the event any provision herein is found to be in conflict with any zoning, building, fire safety, health or other code provisions of the city, the provision which establishes the higher standard for the promotion and protection of the health, safety and welfare of the people shall prevail. A finding by a court of competent jurisdiction that any portion of this Chapter is invalid shall not invalidate the remaining portions. A permit issued pursuant to this Chapter does not grant any authority to violate any other law or regulation that may apply.

**8.10 – Violation and Penalty.** In addition to any other provisions hereof, it is unlawful for any person to maintain a sign or advertising structure in violation of the provisions of this Chapter, and the violation shall be deemed a nuisance. Violation of any provision of this Chapter shall constitute a nuisance and civil infraction, subject to code enforcement by the city.

## CHAPTER 9 ANNEXATION

### Sections:

9.1	Introduction
9.2	Application and Process
9.3	Filing Fees
9.4	City Council Review
9.5	Evaluation Criteria – Developed Land
9.6	Evaluation Criteria – Undeveloped Land
9.7	Factors to be Considered when Determining Fiscal Impact
9.8	Factors to be Considered when Determining Urban Service Capabilities
9.9	Staff Analysis

**9.1 - Introduction.** It is the policy of the City of Mosier to promote orderly, efficient and fiscally responsible annexation of territories in conjunction with urban growth or expected or desired urban growth within the urban growth area. Accordingly, the city shall annex property where:

- A. The proposed annexation represents the natural extension of the existing city boundary consistent with urban growth.
- B. The proposed annexation would not, when developed or as developed, unreasonably limit the ability of the city to provide a level of services to city residents consistent with community needs and the financial capabilities of the city, as determined by the city.
- C. The proposed annexation would not cause the city to pledge extension of services beyond its resources so as to result in a deficit operation of the service.
- D. The proposed annexation would serve the interests of the entire community and not solely the interests or convenience of those within the territory proposed to be annexed.

**9.2 – Application and Process.** An annexation may be proposed by the City of Mosier, landowners, or a group of residents and shall include the following elements:

- A. Preliminary plans and specification, drawn to scale, showing the actual shape and dimensions of the property to be annexed and the existing and proposed land uses and residential density. City and county zoning in the proposed territory, as shown on a vicinity map, and contiguous lands must be indicated also.
- B. Comprehensive statement of reasons in support of the annexation addressing the applicable annexation criteria.
- C. Completed certification of property ownership, registered voter status, map, and legal description.



**9.3 – Filing Fees.** Fees for filing for annexation requests shall be set by city council resolution.

**9.4 – City Council Review.** Within 30 days of receipt of the completed application, the city planner shall review the application and forward a recommendation with findings to the city council who will conduct a public hearing according to the quasi-judicial hearing procedures of the Mosier Zoning Ordinance.

**9.5 – Evaluation Criteria – Developed Land.** Prior to approving a proposed annexation of developed land, affirmative findings shall be made relative to the following criteria:

- A. The territory is contiguous to the city limits and within the Urban Growth Area.
- B. The annexation represents a logical extension of the existing city boundary to accommodate urban growth.
- C. The development of the property is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area.
- D. The city is capable of providing and maintaining its full range of urban services to the territory without negatively impacting the city’s ability to adequately serve all areas within the existing city limits.
- E. The fiscal impact of the annexation is favorable, as determined by the City of Mosier because of existing development.
- F. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area.
- G. The annexation conforms with the Comprehensive Plan.

**9.6 – Evaluation Criteria – Undeveloped Land.** Prior to approving a proposed annexation of undeveloped land, affirmative findings shall be made relative to the following criteria:

- A. The territory is contiguous to the city limits and within the Urban Growth Area.
- B. The annexation represents the natural extension of the existing city boundary to accommodate urban growth.
- C. The annexation of the territory is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area.
- D. The city is capable of providing and maintaining its full range of urban services to the property without negatively impacting the city’s ability to adequately serve all areas within the existing city limits.

- E. The fiscal impact of the annexation is favorable, as determined by the City of Mosier, either upon approval or because of a commitment to a proposed development, unless the city determines that a public need outweighs the increase.
- F. The annexation meets the city’s urban growth needs and it is to the city’s advantage to control the growth and development plans for the territory (i.e., to be able to address the issues of traffic, density, land use and the level and timing of necessary facilities and services). This criterion does not apply where the annexation provides a solution for existing problems resulting from insufficient sanitation, water service, needed routes for utility or transportation networks or other service-related problems.
- H. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area.
- I. The annexation conforms with the Comprehensive Plan.

**9.7 – Factors to be Considered when Determining Fiscal Impact.** The following factors are to be taken into consideration when determining fiscal impact for both developed and undeveloped land and may include, but are not limited to:

- A. The additional revenues, if any, available to the city as a result of the annexation.
- B. Whether any unusual or excessive costs will be incurred as a result of the annexation.
- C. The impact on the city’s tax base if any, as a result of the annexation.

**9.8 – Factors to be Considered when Determining Urban Service Capabilities.**

- A. The municipal service needs, if any, of the territory to be annexed, including those of police and fire protection, public sewer and water supply facilities, street improvement and/or construction and such other municipal services as may reasonably be required. Both short term and long term plans for all services shall be addressed.
- B. The projected costs of supplying reasonably needed municipal services to the territory proposed to be annexed.

**9.9 – Staff Analysis.** In order to assure that the city council, prior to action upon a proposal for annexation, are fully informed as to the potential impacts of the annexation on both the city and the territory proposed to be annexed, the city planner shall provide a staff report addressing the above criteria.

## CHAPTER 10 LANDSCAPING STANDARDS

### **Section:**

10.1	Purpose
10.2	Procedure
10.3	Submittal Requirements for Landscaping Plan
10.4	General Landscaping Standards
10.5	Landscaping and Development Standards for Entrances
10.6	Violation

### **10.1 - Purpose.**

- A. Landscaping standards apply to all new multifamily, commercial and industrial uses, including change of use, and parking lots of 4 spaces or more.
- B. For sites which do not conform to these requirements, an equal percentage of the site must be made to comply with these standards as the percentage of building or parking lot expands, (e.g., if the building or parking lot area is to expand by 25%, then 25% of the site must be brought up to the standards required by this ordinance).

**10.2 - Procedure.** A landscaping plan shall be submitted to the city at the time of application for a building permit conditional use permit, or site plan review for all new multifamily, commercial, industrial uses, including change of use, and parking lots of 4 spaces or more.

- A. The city planner shall review all landscaping plans for compliance with the provisions of this ordinance and notify the property owner of deficiencies in a submitted plan.
- B. A building permit, conditional use permit or site plan review shall not be issued until a landscaping plan has been approved.
- C. The required landscaping shall be in place prior to issuance of a certificate of occupancy or a schedule for its completion prepared and approved.

**10.3 – Submittal Requirements for Landscaping Plan.** A landscaping plan submitted to the city as required by this ordinance shall identify the placement and type of plant materials to provide an effective means for evaluating whether the chosen plant materials will be able to and include:

- A. Survive in the climate and soils of the proposed site.
- B. Satisfy the functional objectives of landscaping as detailed in this ordinance, including erosion control, screening and shade within a reasonable time.
- C. Location of underground irrigation system sprinkler heads where applicable.

- D. Location and height of fences, buffers, and screening.
- E. Location of terraces, decks, shelters, play areas, and common open spaces.
- f. Location, type, size, and species of existing and proposed plant materials with delineation of which trees and plant materials will be retained.

**10.4 – General Landscaping Standards.** The following landscaping standards apply to all new multifamily, commercial and industrial uses, including change of use, and parking lots of 4 or more spaces.

- A. The standards set forth in this ordinance are minimum standards for landscaping.
- B. Unless otherwise provided by a lease agreement, the owner, tenant, and their agent, if any, shall be jointly responsible for the maintenance of all landscaping. Landscaping material shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse and debris.
- C. The property owner shall be responsible for any future damage to a street, curb or sidewalk caused by landscaping.
- D. Landscaping shall be selected and located to deter sound, filter air contaminants, curtail erosion, contribute to living privacy, reduce the visual impacts of large buildings and paved areas, screen, and emphasize or separate outdoor spaces of different uses or character.
- E. Landscaping in parking areas shall be planted in combination along the perimeter and in the interior of the lot and shall be designed to guide traffic movement and lessen the visual dominance of the lot.
- F. Plants that minimize upkeep and maintenance shall be selected.
- G. Plants shall complement or supplement surrounding natural vegetation. Specifically, native plant species that are drought resistant shall be selected.
- H. Plants chosen shall be in scale with building development.
- I. Minimum landscaping as a percent of gross site area shall be as follows:

<u>ZONE</u>	<u>PERCENT</u>
Multifamily	20%
Commercial	15%
Industrial	15%
Parking Lots	10%

- J. Deciduous trees shall have straight trunks, be fully branched, have a minimum caliper of 1½ inches and be adequately staked for planting.
- K. Evergreen trees shall be a minimum of 3 feet in height, fully branched and adequately staked for planting.
- L. Shrubs shall be a minimum 18 inches in height and spaced not more than 4 feet apart for planting.
- M. Watering systems shall be installed to assure landscaping success. If plantings fail to survive, it is the responsibility of the property owner to replace them.
- N. Trees shall not be planted closer than 25 feet from the curb line of intersections of streets or alleys, and not closer than 10 feet from private driveways (measured at the back edge of the sidewalk), fire hydrants, or utility poles.
- O. Street trees shall not be planted closer than 20 feet to light standards. Except for public safety, no new light standard location should be positioned closer than 10 feet to any existing street tree, and preferably such locations will be at least 20 feet distant.
- P. Trees shall not be planted closer than 2½ feet from the face of the curb except at intersections, where it should be 5 feet from the curb in a curb return area.
- Q. Where there are overhead power lines, tree species that will not interfere with those lines shall be chosen.
- R. Trees shall not be planted within 2 feet of any permanent hard surface paving or walkway. Sidewalk cuts in concrete for trees shall be at least 4 feet by 4 feet; however, larger cuts are encouraged because they allow additional air and water into the root system and add to the health of the tree. Space between the tree and such hard surface may be covered by permeable non-permanent hard surfaces such as grates, brick on sand, paver blocks, cobblestones, or ground cover.
- S. Trees, as they grow, shall be pruned to their natural form to provide at least 8 feet of clearance above sidewalks and 12 feet above street roadway surfaces.
- T. Existing trees may be used as street trees if there will be no damage from the development which will kill or weaken the tree. Sidewalks of variable width and elevation may be used to save existing street trees, subject to approval by the city Engineer.
- U. Vision clearance hazards shall be avoided.
- V. The installation of all landscaping shall be as follows:

1. All landscaping shall be installed according to accepted planting procedures in accordance with the provisions of this ordinance and generally following the provisions of Sunset New Western Garden Book, latest edition, Land Publishing Company, Menlo Park, California.
2. The plant material shall be of high grade and be healthy, disease free, well branched stock characteristic of the species.

**10.5 – Landscaping and Development Standards for Entrances.** The following standards will be required for new commercial, multifamily, industrial uses, including change of use, and parking lots of 4 spaces or more on properties along Highway 30 of the city limits of Mosier.

- A. For sites which do not conform to these requirements, an equal percentage of the site must be made to comply with these standards as the percentage of building or parking lot expansion, e.g., if building or parking lot area is to expand by 25%, then 25% of the site must be brought up to the standards required by this ordinance.
  1. Entrances. Along Highway 30 starting at Mosier Manor and ending one-half mile east of Mosier Creek Bridge
  2. Standards.
    - a. An average 10 foot wide landscaped area, at minimum, shall be planted along the perimeter of the parcel fronting the street right-of-way as part of the landscape requirement.
    - b. Street trees shall be placed at the rate of one tree for every 30 feet of street frontage. Trees shall be evenly spaced, with variations to the spacing permitted for specific site limitations, such as driveway approaches.

**10.6 - Violation.** Failure to comply with the standards subsequent to issuance of the building permit for new construction shall constitute a violation of these regulations and be subject to the penalty and abatement proceedings by the city.

**CHAPTER 11**  
**ZONE CHANGES AND COMPREHENSIVE PLAN AMENDMENTS**

**Sections:**

- 11.1           Initiation of the Amendment and Process
- 11.2           Criteria
- 11.3           Conditions of Approval

**11.1   Initiation of the Amendment and Process.** A text amendment to this Ordinance, the Land Division Ordinance, the Comprehensive Plan, or an amendment to the zoning map, including a zone change, may be initiated by the city council or by a property owner. Any Comprehensive Plan amendment or amendment to the city's land use regulations that has applicability to many properties shall be subject to a Type IV process. Any property-specific zone change application shall be subject to a Type III process.

**11.2   Criteria.** The proponent for any amendment to this Ordinance, the Land Division Ordinance, the Comprehensive Plan, or an amendment to the zoning map, including a zone change, shall demonstrate with evidence that all of the following criteria are met:

- A.     The proposal shall be consistent with the goals and policies of the Comprehensive Plan, with the applicable State-wide Planning Goals, and with any other applicable state or local requirement.
- B.     That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to development under the proposed zoning. Service shall be sufficient to support the range of uses and development allowed by the zone.
- C.     The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.
- D.     That the proposed change is in the public interest and supports the general public welfare.

**11.3   Conditions of Approval.** In granting a property-specific zone change, the city council may attach such conditions and requirements to the zone change as it deems necessary to achieve or ensure compliance with the approval criteria. Any conditions attached to a quasi-judicial zone change approval must be accepted in writing by the property owner, recorded with the Wasco County deed records, and the zone change shall not become effective until the written acceptance is executed.