

**2018-2020 UPDATE OF
CITY OF MAUPIN**

Ordinance No. 311

ZONING ORDINANCE

for the

CITY OF MAUPIN, OREGON

AN ORDINANCE ESTABLISHING LAND USE ZONES TO REGULATE THE
LOCATION OF BUILDING STRUCTURES AND THE USE OF LAND WITHIN
THE CITY OF MAUPIN, OREGON, REPEALING ORDINANCE NO. 249
AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH AND
DECLARING AN EMERGENCY

The City of Maupin ordains as follows:

Article 1. Introductory Provisions

SECTION 1.1 – TITLE

This Ordinance shall be known as the City of Maupin Zoning Ordinance.

SECTION 1.2 – PURPOSE

1. To implement the Maupin Comprehensive Plan as adopted by the Maupin City Council.
2. To comply with ORS Chapter 197, Oregon Revised Statutes.
3. To promote the public health, safety and welfare of the citizens of the City of Maupin.
4. To repeal and replace Ordinance No. 249, as amended.

SECTION 1.3 – DEFINITIONS

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

1. **ACCESS.** The way or means by which pedestrians and vehicles enter and leave property which is commonly open to use by the public.
2. **ACCESSORY USE OR ACCESSORY STRUCTURE.** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
3. **ALLEY.** A street which affords only a secondary means of access to the property.

4. AUTOMOBILE WRECKING YARD. A premise used for the 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 solely within an enclosed structure.
5. APARTMENT. A building, or portion thereof, consisting of separate living units designed for occupancy by three or more families living independently of each other.
6. **BARN'DMINIUM. A steel structure originally intended for agriculture, commercial or industrial use that is placed upon a lot or parcel and has living quarters constructed within it to serve as a single family dwelling. Certain standards listed in Article 4, Supplemental Provisions apply.**
7. BED AND BREAKFAST. An establishment **that conducts transient rental of rooms** that contains up to five (5) guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to fifteen (15) days.
8. BUILDING. A structure or mobile home unit built for the support, shelter or the enclosure of persons, animals, chattels, or property of any kind.
9. **CARGO CONTAINER CONVERSION. One or more cargo containers designed to ship cargo by land, sea and air that is converted into a single family dwelling. Such cargo containers must be certified by the seller to have never been used to carry hazardous material. Certain standards, listed in Article 4, Supplemental Provisions apply.**
10. CHURCH. A building or edifice used primarily for religious worship.
11. CITY. The City of Maupin
12. CITY COUNCIL. Maupin City Council
13. COMMERCIAL. The purchase, sale or other transaction involving the handling or disposition other than included in the term "Industrial" as hereinafter defined, of any article, substance, or commodity for profit, including shops for the sale of personal services including professional services and places where commodities, service or merchandise are sold or arrangements are made to furnish them and excepting "home occupation" and "hobby farm" as hereinafter defined.
14. CONTIGUOUS LAND. Two or more parcels or units of land, including water, under a single ownership which are not separated by an intervening parcel of land under a separate ownership (including limited access rights-or-way) which would deny access between the two parcels under single ownership.
15. **DECK. A deck constructed of wood, concrete, or other common building materials constructed more than 30 inches above grade (i.e. a grade level patio or wooden deck less than 30 inches does not require a building permit and does not have to meet zoning setbacks.) Any fixed roof or fixed cover over the deck would require a building permit and thus the deck would be required to meet setbacks as well.**
16. DUPLEX. A building containing two dwelling units designed for occupancy by two families.
17. DWELLING. A detached building for and occupied exclusively by one family.
18. **DWELLING, SINGLE FAMILY. A structure designed and built exclusively for the occupancy of one family. The structure may be site built, a modular residential structure, or a qualified manufactured or mobile home. Architectural exterior features shown in Section 4.18 are required. Single Family Dwellings include detached dwellings and sustainable housing including Barn'dminiums and cargo containers meeting certain standards listed in Section 4.19**
19. FAMILY. An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling nit. Family shall include two or more persons with a handicap as defined in the Fair Housing Amendments Act of 1998, 42 USC § 3601 and following, living as a single housekeeping unit.

20. FARM USE. The current employment of land for the purpose of supporting accepted farming practices for raising, harvesting, and selling crops or poultry, fur-bearing animals, or honeybees or dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof, excluding feedlots, for profit.
21. GRADE (Adjacent Ground). Grade is the average point of elevation between the lowest and the highest point on the existing ground within the building's footprint.
22. HEIGHT OF BUILDING. The vertical distance measured from the "average grade" to the highest point of the roof beams of flat roofs, to the deck line of mansard roofs, or to the center height between eaves and ridges for gable, hip, or gambrel roofs.
23. HOBBY FARM. Solely as a recreational pursuit, the use of land for the keeping of horses, cows, ponies, goats, sheep and other similar animals and poultry, fur-bearing animals, honeybees or other agricultural or horticultural use.
24. HOME OCCUPATION. The lawful occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, provided:
 - a. There is no more than one additional person employed other than the resident of the dwelling and
 - b. The occupation is carried on in such a manner as not to impart the outward appearance of a business in an ordinary meaning of the term, or cause or lead to unreasonable increase of the flow of traffic in the neighborhood or production of noise or other forms of environmental pollution.
25. INDUSTRIAL. The making or storage of commodities by manufacturing, assembling, fabrication, generation or compounding by manual labor or machinery. The term includes physical or chemical processes or combinations thereof. **Light industrial is the above defined activities being conducted solely within an enclosed building. Heavy industrial would then be identified as those activities as defined above taking place outside an enclosed building.**
26. LONG TERM RENTAL. **A dwelling unit or room rented for compensation for a period of 30 or more days.**
27. LOT. A parcel or tract of land.
28. LOT AREA. The total area of the lot measured in the horizontal plane within the lot boundary lines, exclusive of public or private roads and the easement of access to other properties.
29. LOT DEPTH. The average horizontal distance between the front lot line and the rear lot line.
30. LOT LINE, FRONT. **Front lot line means the line on a lot abutting a street, other than an alley. On vacant corner lots, the owner may choose which street is to serve as the front lot line.**
31. LOT WIDTH. The average horizontal distance between the side lot lines ordinarily measured parallel to the front lot line.
32. MANUFACTURED HOME. **A dwelling constructed to U.S. Department of Housing and Urban Development (HUD) standards since June 15, 1976, but not to State Building Code standards.**
33. MANUFACTURED HOME OR MOBILE HOME PARK. **A place where four or more manufactured or mobile homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or keep space for rent or to offer space free in connection with securing the trade or patronage of such person.**
34. MOBILE HOME. **A residential structure intended for permanent human occupancy and constructed for movement on the public highways, constructed prior to adoption of June 15, 1976 U.S. Housing Urban Development (HUD) standards, but meeting the requirements of Oregon's mobile home laws in effect between January 1, 1962 and June 15, 1976.**

35. **MODULAR STRUCTURE.** A structure not built on-site, but which is placed on a permanent foundation and meets the State Building Code standards.
36. MULTIPLE FAMILY DWELLING. Dwelling designed or intended for the residence of three or more families.
37. NON-CONFORMING STRUCTURE OR USE. A lawful existing structure for use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.
38. OWNER. A person, his authorized agent or representative who has legal authority to use, transfer or lease land.
39. **PARK.** Publicly owned parks for outdoor recreation activities.
40. PARKING PLACE. A rectangular area not less than 9 feet wide and 19 feet long, together with maneuvering and access space for an automobile, equipment or other vehicle to park within the rectangle without the necessity of maneuvering other parked vehicles.
41. PERSON. A natural person, firm, partnership, estate, receiver, syndicate, branch of government of any group or combination acting as a unit.
42. PLANNING COMMISSION. Maupin Planning Commission.
43. RECORDER. The Recorder of the City of Maupin.
44. RECREATIONAL VEHICLE (RV). A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational, **seasonal**, or emergency purposes and **is further defined by state law and/or administrative rules.**
45. **RECREATIONAL VEHICLE PARK.** A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. **There is no minimum required stay in a Recreational Vehicle Park, however, the City may establish the maximum length of stay. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks.**
46. RESIDENTIAL CARE FACILITY. A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the Department, as defined in ORS 433.400 under ORS 443.400 to ORS 433.460, or licensed by the State of Oregon Division under ORS 418.205 or ORS 418.327, which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for six to fifteen individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residents and need not be related to each other or to any resident of the Residential Care Facility.
47. RESIDENTIAL CARE HOME. A residential treatment or training or adult foster home licensed by or under the authority of the Department as defined in ORS 443.300, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to ORS 443.500, or an adult foster home licensed under ORS 443.705 to 443.825, which combination thereof, of five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents and need not be related to each other or any residents of the Residential Care Home.
48. RESIDENTIAL USE. A structure or use designed or used for occupancy as a human dwelling or lodging place, such as single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.
49. RIVER ORIENTED RECREATION ACTIVITIES. Refers to businesses offering goods and services which allow or enhance the recreational use of the river..
50. SCENIC WATERWAY. The area within the Urban Growth boundary as depicted on the plan map that has been designated the Deschutes River Scenic Waterway.

51. **SET BACK. The minimum allowed horizontal distance from a given point or line of reference, such as a property line, to the nearest vertical wall or other element of a building or structure.**
52. **SIGN. An outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other things that are used, designed or intended for advertising purposes or to inform or attract the attention of 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.**
53. **STREET. The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic, and includes the terms road, highway, lane, place, avenue, alley or other similar designation which is commonly open to use by the public.**
54. **STRUCTURE. Something which is constructed or built having a fixed base on or fixed connection to the ground or other structure.**
55. **TRACT OR AREA. The measurable extent or stretch of continuous land.**
56. **USE. The purpose for which land or building is designed, arranged or intended, or for which it is occupied or maintained.**
57. **VISION CLEARANCE. Refers to an open area unobstructed from 3.5 feet to 8 feet in height on the intersections of two streets. See Section 4.13 for regulations thereof.**
58. **YARD. An open area on a lot that is unobstructed from the ground upward.**
59. **YARD, FRONT. A yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition abutting on a street other than an alley shall be considered a front yard.**
60. **YARD, REAR. Yard between the side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.**
61. **YARD, SIDE. The yard between front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.**
62. **YURT. A structure with a solid floor of wood or concrete with short stem walls. The roof is composed of a fabric or flexible membrane that connects to short stem walls. These units are for recreational use only. See Section 4.20.**

Article 2. Basic Provisions

SECTION 2.1 – COMPLIANCE WITH ORDINANCE PROVISIONS

The land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this ordinance shall permit.

SECTION 2.2 – ESTABLISHMENT OF LAND USE ZONES

This ordinance hereby establishes the following land use zones for the City:

ZONE DISTRICT NAME	ZONE DISTRICT CODE
OPEN SPACE	OS
AGRICULTURAL	A
LARGE LOT-RESIDENTIAL	LL-R
LOW DENSITY-RESIDENTIAL	LD-R
MEDIUM DENSITY RESIDENTIAL	MD-R
HIGH DENSITY-RESIDENTIAL	HD-R
GENERAL COMMERCIAL	GC
RECREATIONAL COMMERCIAL	RC
COMMERCIAL/RESIDENTIAL TRANSITION	CRT
INDUSTRIAL	I
OVERLAY DISTRICTS:	
FLOOD HAZARDS	
GEOLOGIC HAZARDS	
SCENIC WATERWAY	

SECTION 2.3 – LOCATIONS OF ZONES

The boundaries of the zones listed in this ordinance are delineated on the official zoning maps.

SECTION 2.4 – OFFICIAL ZONING MAPS

The official Zoning Maps of the City of Maupin Urban Growth Boundary shall be declared to be adopted by reference and made a part of this ordinance as of the date of its passage. One copy each of the Official Zoning Maps shall be filed with the City Recorder and posted in City Hall. Zoning Map amendments shall be dated with the effective date of such amendments and the same shall be filed in the office of the **Zoning Ordinance Administrator**.

SECTION 2.5 – ZONING BOUNDARIES

Where uncertainty exists with respect to any of the boundaries of the zoning districts shown on the official zoning maps, the following rules shall apply:

- A. **Where the boundaries of zones designated on the Zoning Map are shown as highway, streets, roads, and alleys, the centerline of such highways, streets, roads, and alleys shall be considered as the boundaries for such zones. Please be aware public rights-of-way, streets, and roads are not zoned or planned for land use. They are public rights-of-way and they are shown as boundaries for ease of presentation, no land use rules regarding the uses thereon can be utilized.**
- B. Where the boundaries of the zones designated on a zoning map are approximately recorded property lines, such property lines shall be construed to be the boundaries of such zones.
- C. In subdivided or unparcelled property the zone boundary lines on zoning map shall be determined by use of the scale contained on such map.

Article 3. Land Use Zones

SECTION 3.1 – OPEN SPACE ZONE “OS”

It is the purpose of this zone to preserve open space and protect scenic values in the City.

A. PERMITTED USES. The following uses are permitted outright:

1. Public parks and recreation areas.
2. Farm use as defined in Section 1.3(20).
3. Farm dwelling or dwellings for owners, operators and farm employees.
4. Accessory buildings customarily provided in conjunction with farm use.

B. CONDITIONAL USES. The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this section.

Utility and communication facilities necessary for public services, except commercial facilities for the generation of power; conditioned upon, but not limited to, the following criteria:

1. Submission of an acceptable site plan for landscaping and protection of adjoining and residential properties as required by the Planning Commission.
2. Designed for an appropriate capacity to support development of service area as anticipated by the Comprehensive Plan.
3. Demonstration that sites within a geologic hazard zone comply with the requirements as described in Section 3.10 of this Ordinance.
4. Demonstration that adverse environmental impacts will be mitigated to the greatest extent feasible.

C. DIMENSIONAL STANDARDS. In the “OS” Open Space zone the following dimensional standards shall apply.

1. Height. Buildings, structures or portions thereof shall not be erected to exceed a height of 35 feet, excluding agricultural storage facilities and necessary public utilities and services.
2. Area. Every lot shall have a minimum of 40 acres except that all lots and parcels shall conform to the minimum health standards prescribed by the Oregon State Health and Sanitation requirements.
3. Yards.
 - (a) Front yard. There shall be a front yard of not less than 30 feet in depth.
 - (b) Side yard. There shall be a side yard on each side of the main building and each side yard shall have a width of not less than 20 feet.
 - (c) Rear yard. There shall be a rear yard of not less than 30 feet in depth.

D. PARKING REGULATIONS.

1. All equipment shall be stored on the property in compliance with yard requirements.
2. One off-street parking space shall be provided on the lot for each dwelling unit.

3. Section 4.8 of this Ordinance shall apply for all other uses.
- E. **SANITATION REGULATIONS.** Before any dwelling is occupied, it must be connected to the city sewer system at such time as the city sewer system becomes available to the property on which the dwelling is located. In the event the sewer system is not available subsurface sewage disposal must be approved by the DEQ or its authorized representative prior to the construction of any new dwelling.

SECTION 3.2 – AGRICULTURAL ZONE “A”

It is the purpose of this zone to preserve agricultural lands within the city limits that are not already committed to urban development.

Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the Agricultural zone shall comply with the following regulations:

- A. **PERMITTED USES.** The following are permitted outright.
 1. Farm use as defined.
 2. Farm dwelling or dwellings for owners, operators, and farm employees.
 3. Accessory buildings customarily provided in conjunction with farm use.
- B. **CONDITIONAL USES.** The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this section.
 1. Utility and communication facilities necessary for public services, except commercial facilities for the generation of power; conditioned upon, but not limited to, the following criteria:
 - (a) Submission of an acceptable site plan for landscaping and protection of adjoining and residential properties as required by the Planning Commission.
 - (b) Designed for an appropriate capacity to support development of service area as anticipated by the Comprehensive Plan.
 - (c) Demonstration that adverse environmental impacts will be mitigated to the greatest extent feasible.
 2. **Bed and breakfast facilities. Subject to the provisions of Sections 4.14**
- C. **DIMENSIONAL STANDARDS.** In the “A” Agricultural zone the following dimensional standards shall apply.
 1. **Height.** Buildings, structures or portions thereof shall not be erected to exceed a height of 35 feet, excluding agricultural storage facilities and necessary public utilities and services.
 2. **Area.** Every lot shall have a minimum of 40 acres except that all lots and parcels shall conform to the minimum health standards prescribed by the Oregon State Health and Sanitation requirements.
 3. **Yards.**
 - (a) **Front yard.** There shall be a front yard of not less than 30 feet in depth.
 - (b) **Side yard.** There shall be a side yard on each side of the main building and each side yard shall have a width of not less than 15 feet.
 - (c) **Rear yard.** There shall be a rear yard of not less than 30 feet in depth.

D. PARKING REGULATIONS.

1. All equipment shall be stored on the property in compliance with yard requirements.
2. One off-street parking space shall be provided on the lot for each dwelling unit.
3. Section 4.8 of this Ordinance shall apply for all other uses.

E. SANITATION REGULATION. Before any dwelling is occupied, it must be connected to the city sewer system at such time as the city sewer system becomes available to the property on which the dwelling is located. In the event the sewer system is not available subsurface sewage disposal must be approved by the DEQ or its authorized representative prior to the construction of any new dwelling.

SECTION 3.3 – LARGE LOT – RESIDENTIAL ZONE “LL-R”

It is the purpose of this zone to accommodate a large lot residential type of development and to provide residential/recreational/and retirement home sites in an urban setting.

Buildings or structures hereafter erected, structurally altered, changed, or moved and land hereafter used in the Large Lot-Residential zone shall comply with the following regulations.

A. PERMITTED USES. The following uses are permitted outright.

1. Single family dwellings **as defined.**
2. Public parks, recreation areas, and open space.
3. Hobby farms. The keeping of animals shall be limited as follows:
 - (a) No swine shall be kept.
 - (b) Buildings and structures to house such livestock shall not be located closer than fifty (50) feet to any property line.
 - (c) A hobby farm must be five (5) acres or larger.

4. Residential care home.

B. CONDITIONAL USES. The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this Section.

1. Utility communication facilities necessary for public services, except commercial facilities for the generation of power; conditioned upon, but not limited to, the following criteria:
 - (a) Submission of an acceptable site plan for landscaping and protection of adjoining and residential properties as required by the Planning Commission.
 - (b) Designed at appropriate capacity to support development of service area as anticipated by the Comprehensive Plan.
 - (c) Demonstration that adverse environmental impacts will be mitigated to the greatest extent feasible.
2. Emergency protection facilities such as police or fire substations; conditioned upon, but not limited to, the following criteria:
 - (a) Submission of an acceptable site plan for landscaping off-street parking, street access, and protection of adjoining properties as required by the Planning Commission.

3. **Bed and Breakfast facilities. Subject to the provisions of Section 4.14.**
 4. **Home occupation.**
 5. **Cemetery.**
 6. **Planned Unit Development.**
 7. **Public or private Utility Facilities including Storage.**
 8. **Residential care facility.**
- C. DIMENSIONAL STANDARDS. In the “LL-R” Large Lot-Residential zone, the following dimensional standards shall apply.
1. Height. Buildings, structures, or portions thereof shall not be erected to exceed a height of 35 feet, excluding necessary public utilities and services.
 2. Area. Every lot shall have a gross minimum of one (1) acre.
 - (a) Front Yard. There shall be a front yard of not less than 30 feet in depth. (See setbacks for housing livestock on hobby farms.)
 - (b) Side Yard. There shall be a side yard on each side of the main building and each side yard shall be not less than 20 feet in width.
 - (c) Rear Yard. There shall be a rear yard of not less than 30 feet in depth.
 - (d) All personal property shall be stored on the property in compliance with yard requirements or enclosed inside a site obscuring fence as set out above.
- D. PARKING REGULATIONS.
1. All equipment shall be stored on the property in compliance with yard requirements.
 2. Two or more off-street parking spaces shall be provided for each dwelling unit.
 3. Section 4.8 of this Ordinance shall apply for all other uses.
- E. SANITATION REGULATIONS. Before any dwelling is occupied, it must be connected to the city sewer system at such time as the city sewer system becomes available to the property on which the dwelling is located. In the event the sewer system is not available, subsurface sewage disposal must be approved by the DEQ or its authorized representative prior to the construction of any new dwellings.
1. Available City sewer is defined as having a municipal sewer line within 300 feet of the property.
- F. WATER REGULATIONS. Before municipal water service is provided to the property it shall be annexed to the City of Maupin or a consent to annexation shall be filed with the City by the legal owner.
- G. STREET REGULATIONS. Before any property is subdivided inside the City of Maupin or inside the Urban Growth Boundary (UGB) the proposed street plan shall be approved as part of the plat and shall be constructed to the following standards:
1. The right of way width for street and utilities shall be no less than 50 feet.
 2. Lots shall be served by a paved all weather surface 20 foot in width ditched for drainage on both sides and constructed within the public right of way.

SECTION 3.4 – LOW DENSITY – RESIDENTIAL “LD-R”

It is the purpose of this zone to provide areas in which a low density pattern of homes can be established.

Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the Low Density-Residential zone shall comply with the following regulations:

A. **PERMITTED USES.**

1. Single family dwellings **as defined.**
2. Public parks and recreation areas.
3. Accessory uses and buildings customarily incidental to the above uses. Detached accessory buildings, of **200** ~~120~~ square feet or less, not requiring a building permit shall **Not** be required to meet the side and rear yard requirements, **but are not allowed in the front yard setback area.** Detached accessory buildings, of more than **200** square feet, shall be located not less than 20 feet from the front lot line, and not less than 5 feet from the main building. Detached accessory buildings on a corner lot shall not project into the side yard on the street side of such corner lot.
4. Mobile home as temporary residence subject to the supplementary provisions of Section 4.7.
5. **Residential care home.**

B. **CONDITIONAL USES.** The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this Section.

1. Utility and communication facilities necessary for public services, except commercial facilities for the generation of power; conditioned upon, but not limited to, the following criteria:
 - (a) Submission of an acceptable site plan for landscaping and protection of adjoining and residential properties as required by the Planning Commission.
 - (b) Designed for an appropriate capacity to support development of service area as anticipated by the Comprehensive Plan.
 - (c) Demonstration that adverse environmental impacts will be mitigated to the greatest extent feasible.
2. Churches.
3. Public, parochial, and private schools, including nursery schools and day care nurseries, but not including business, dancing, technical or similar schools.
4. Lodge for civic or fraternal organization carrying on no commercial activity.
5. Home occupations.
6. Duplexes.
7. Cemetery.
8. Emergency protection facilities such as police or fire substations; conditioned upon, but not limited to, the following criteria:
 - (a) Submission of an acceptable site plan for landscaping off-street parking, street access, and protection of adjoining properties as required by the Planning Commission.
9. Bed and breakfast facilities. Subject to supplemental provisions of Section 4.14.

10. **Planned Unit Development.**
 11. **Residential care facility.**
- C. DIMENSIONAL STANDARDS. In the “LD-R” Low Density-Residential zone the following dimensional standards shall apply.
1. Height. Building, structures or portions thereof shall not be erected to exceed a height of 35 feet, excluding necessary public utilities and services.
 2. Area. Every lot shall have a minimum of 8,000 square feet and an average width of not less than 75 feet.
 - (a) Front yard. There shall be a front yard of not less than 20 feet in depth.
 - (b) Side Yard. On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than five (5) feet in width. On corner lots the interior side yards shall have a width of not less than 5 feet but the side yard on the street side of such corner lot shall not be less than 10 feet in width.
 - (c) Rear Yard. There shall be a rear yard of not less than ten (10) feet from the rear property line unless adjacent to a platted alley, in which case the rear yard setback for accessory building (only) may be three (3) feet.
- D. PARKING REGULATIONS.
1. Dwellings. One parking space shall be provided on the lot for each dwelling unit.
 2. Churches, Lodges for Civic and Fraternal Organizations. Section 4.8 of this Ordinance shall apply.
- E. SANITATION REQUIREMENTS. Before any dwelling is occupied, it must be connected to the city sewer system at such time as the city sewer system becomes available to property on which the dwelling is located. In the event the sewer system is not available subsurface sewage disposal must be approved by the DEQ or its authorized representative prior to the construction of any new dwelling.

SECTION 3.5 – MEDIUM DENSITY – RESIDENTIAL “MD-R”

It is the purpose of this zone to provide a medium density pattern of dwellings and a mix of housing types.

Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the Medium Density-Residential zone shall comply with the following regulations:

- A. PERMITTED USES.
1. **Single Family Dwellings as defined.**
 2. **Public parks and recreation areas.**
 3. **Accessory uses and buildings customarily incidental to the above uses. Detached accessory building of 200 square feet or less, not requiring a building permit shall not be required to meet the side and rear yard requirements, but shall not be placed in the front yard setback area. Detached accessory buildings, of more than 200 square feet, shall be located not less than 20 feet from the front lot line, and not less than 5 feet from the main building. Detached accessory buildings on a corner lot shall not project into the side yard on the street side of such corner lot.**
 4. **Mobile home as temporary residence subject to the supplementary provisions of Section 4.7**

5. **Manufactured home as permanent residence subject to the supplementary provisions of Section 4.5**
 6. **Mobile homes, which comply with the requirements for other single family dwellings and the supplementary provisions of Section 4.5.**
 7. **Residential care home.**
- B. CONDITIONAL USES. The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this Section.
1. **Duplexes.**
 2. **Mobile homes parks, subject to the supplementary provisions of Section 4.6.**
 3. **Churches.**
 4. **Public, parochial and private schools, but not including business, dancing, technical or similar schools.**
 5. **Lodge for civic or fraternal organization carrying on no commercial activity.**
 6. **Publicly owned and operated buildings.**
 7. **Planned Unit Development.**
 8. **Home occupation.**
 9. **Residential care facility.**
- C. DIMENSIONAL STANDARDS. In the “MD-R” Medium Density-Residential zone the following dimensional standards shall apply:
1. Height. Buildings, structures or portions thereof shall not be erected to exceed a height of 35 feet, excluding necessary public utilities and services.
 2. Area. Every lot shall have a minimum of 5,000 square feet and an average width of not less than 50 feet. A lot having a width of less than 50 feet or an area of less than 5,000 square feet at the time of passage of this ordinance may be occupied by a one-family dwelling, provided that all yard requirements are complied with. **Duplexes require a 10,000 square feet minimum lot size.**
 - (a) Front Yard. There shall be a front yard of not less than 20 feet in depth.
 - (b) Side Yard. On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than five (5) feet in width. On corner lots the interior side yards shall have a width of not less than 5 feet but the side yard on the street side of such corner lot shall not be less than 10 feet in width.
 - (c) Rear Yard. There shall be a rear yard of not less than ten (10) feet from the rear property line unless adjacent to a platted alley, in which case the rear yard setback for accessory building (only) may be three (3) feet.
- D. PARKING REGULATIONS.
1. Dwellings. One parking space shall be provided on the lot for each dwelling unit.
 2. Uses Other than Dwellings. Section 4.8 of this Ordinance shall apply.

- E. SANITATION REGULATIONS. Before any dwelling is occupied, it must be connected to the city sewer system.

SECTION 3.6 – HIGH DENSITY-RESIDENTIAL “HD-R”

It is the purpose of this zone to provide areas in the city where a high density pattern of multiple family dwellings can be established and a mix of housing type developed.

Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the High Density-Residential zone shall comply with the following regulations:

A. PERMITTED USES.

1. **Single family dwellings.**
2. **Public parks and recreation areas.**
3. **Accessory uses and buildings customarily incidental to the above uses. Detached accessory buildings, of 200 square feet or less, not requiring a building permit shall be required to meet the side and rear yard requirements except on the side yard of a corner lot. Detached accessory buildings, of more than 200 square feet, shall be located not less than 20 feet from the front lot line, and not less than 5 feet from the main building. Detached accessory buildings on a corner lot shall not project into the side yard on the street side of such corner lot.**
4. **Mobile home as temporary residence subject to the supplementary provisions of Section 4.7.**
5. **Manufactured home as permanent residence subject to the supplementary provisions of Section 4.5.**
6. Duplexes with a minimum of 800 square feet of floor area per unit.
7. Apartments, three to twelve attached dwelling units with a minimum of 800 square feet per unit subject to the lot size requirements as follows. **Site Plan Review required.**
 - (a) **Duplex. 5,000 square foot minimum lot size.**
 - (b) **Three-family attached dwellings. 10,000 square foot minimum lot size.**
 - (c) **Four or more attached dwelling units. 12,000 square foot minimum lot size plus 500 square feet for each additional dwelling unit over four.**

B. CONDITIONAL USES. The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this Ordinance as required in Section 5.1 and this Section.

1. **Churches.**
2. **Public, parochial, and private schools, including nursery schools and day care nurseries, but not including business, dancing, technical or similar schools.**
3. **Public facilities, such as a library, that does not include any outside storage and can meet parking standards.**
4. **Lodge for civic or fraternal organization carrying on no commercial activity.**
5. **Home occupations.**
6. **Bed and breakfast facilities. Subject to supplemental provisions of Section 4.14.**

7. **Mobile/Manufactured Home parks, subject to the supplementary provisions of Section 4.6.**
 8. **Emergency protection facilities such as police or fire substations; conditioned upon, but not limited to, the following criteria:**
 - (a) **Submission of an acceptable site plan for landscaping off-street parking, street access, and protection of adjoining properties as required by the Planning Commission.**
 9. Assisted living facility. An assisted living facility is a residential development in which individual living units or apartments are provided for residents. In addition, on-site health care is provided in conjunction with the residential nature of the development. Assisted living facilities must comply with the development density standards listed above, with the exception that there may be more than 12 dwelling units in each individual structure.
 10. Medical Clinic. A facility providing in-patient and/or out-patient health services for the medical, psychiatric, or surgical care of the sick or injured. Includes related facilities such as laboratories, training facilities, services, and staff offices related to the institution.
 11. Planned Unit Development.
- C. **DIMENSIONAL STANDARDS.** In the “HD-R” High Density-Residential zone the following dimensional standards shall apply.
1. **Height.** Buildings, structures or portions thereof shall not be erected to exceed two and one half stories or 35 feet, excluding necessary public utilities and services.
 2. **Area.** Every lot shall have a minimum area of not less than **5,000** ~~8,000~~ square feet and an average width of not less than **50** feet, except as required for apartment building.
 - (a) **Front Yard.** There shall be a front yard of not less than 20 feet in depth.
 - (b) **Side Yard.** On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than 5 feet. On corner lots, the interior side yards shall have a width of not less than 5 feet but the side yard on the street side of such corner lot shall not be less than 10 feet in width.
 - (c) **Rear Yard.** There shall be a rear yard of not less than ten (10) feet from the rear property line unless adjacent to a platted alley, in which case the rear yard setback for accessory building (only) may be three (3) feet.
- D. **PARKING REGULATIONS.**
1. **Dwelling.** One parking space shall be provided on the lot for each dwelling unit.
 2. **Uses Other than Dwellings.** See Section 4.8.
- E. **SANITATION REGULATIONS.** Before any dwelling is occupied, it must be connected to the city sewer system.

SECTION 3.7 – GENERAL COMMERCIAL “GC”

It is the purpose of this zone to provide an area where retail businesses and services may be established that enhance the traditional pedestrian access to the commercial core of the city.

Buildings and structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the General Commercial zone shall comply with the following regulations:

- A. PERMITTED USES. Subject to Site Plan Review.
1. Retail trade establishments in which operation takes place within an enclosed building, except those uses specifically listed under Section 3.7.B below.
 2. Business, governmental or professional offices.
 3. Financial institution.
 4. Personal and business service such as barber shop, tailoring shop, printing shop, laundry or dry cleaning establishment, and electrical repair shop.
 5. Public park, public recreation areas and community center.
 6. Lodge for civic or fraternal organizations.
 7. Emergency protection facilities such as police or fire stations.
 8. Libraries.
 9. Accessory use or buildings.
 10. **Residential apartments above existing commercial uses.**
 11. Other similar uses as authorized by the Planning Commission.
- B. CONDITIONAL USES. The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this Section.
1. Utility and communication facilities necessary for public services, except commercial facilities for the generation of power; conditioned upon, but not limited to, the following criteria:
 - (a) Submission of an acceptable site plan for landscaping and protection of adjoining and residential properties as required by the Planning Commission.
 - (b) Design at appropriate capacity to support development of service area as anticipated by the Comprehensive Plan.
 - (c) Demonstration that adverse environmental impacts will be mitigated to the greatest extent feasible.
 2. Taverns, **Brew Pubs**.
 3. Commercial amusement.
 4. **Apartments, three to twelve attached dwelling units with a minimum of 800 square feet per unit subject to the lot size requirements as follows:**
 - (a) **Three-family attached dwellings. 10,000 square foot minimum lot size.**
 - (b) **Four or more attached dwelling units. 12,000 square foot minimum lot size plus 500 square feet for each additional dwelling unit over four.**
 5. Hotel, motel and gasoline service station.
 6. **Bed and Breakfast facilities. Subject to the provisions of Section 4.14.**
 7. **RV Parks.**

8. Other uses which are similar to the uses listed in this section.
 9. **Publicly owned and operated buildings.**
- C. **DIMENSIONAL STANDARDS.** In the “GC” General Commercial zone the following dimensional standards shall apply:
1. **Height.** Buildings, structures or portions thereof shall not be erected to exceed a height of two and one-half stories or 35 feet, excluding necessary public utilities and services.
 2. **Area.** No minimum lot area required. **Multifamily Residential shall meet HD-R lot size standards.**
 - (a) **Yards.** None required except where abutting a residential zone, the setback requirement of the residential zone shall apply to the abutting yards.
- D. **SETBACKS.** **None required provided fire codes are met. Multi-family residential shall meet HD-R setbacks.**
- E. **PARKING REGULATIONS.**
1. Section 4.8 shall apply. Expansion or redevelopment of existing developed areas may seek a variance to these regulations under Article 6 of this Ordinance.
 2. Parking area approval. Sufficient off-street parking shall be required for all uses. A parking plan shall be approved by the Planning Commission prior to permit approval. The area must be surfaced with asphaltic concrete. or other type of surfacing approved by the Planning Commission.
- F. **SANITATION REGULATIONS.** Before any structure or building is occupied it must be connected to the city sewer system.
- G. **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 shielded or hooded to prohibit glare to impact adjoining properties.
- H. **OUTDOOR STORAGE.** **Any areas of outdoor storage must be adequately screened to prevent visual impacts on neighboring properties and areas of storage must not be located on required parking areas.**

SECTION 3.8 – RECREATIONAL COMMERCIAL “RC”

It is the purpose of this zone to provide areas where businesses and services may be established to enhance the recreational and tourist industry in the city.

Buildings and structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the Recreational Commercial zone shall comply with the following regulations:

- A. **PERMITTED USES.** Subject to Site Plan Review.
1. Motel, hotel, recreational vehicle park, and campgrounds, including one on-site single family residence or apartment for the use of the owner or on-site manager of the facility.
 2. Restaurants or cafes.
 3. Emergency protection facilities such as police or fire stations.
 4. Accessory uses or buildings.
 5. River oriented recreational activities.

6. Residential uses located above existing commercial uses.

B. CONDITIONAL USES. The following uses and their accessory uses are permitted when authorized by the Planning Commission upon satisfactory demonstration of compliance with the standards of this ordinance as required in Section 5.1 and this section.

1. Taverns, **Brew Pubs**
2. Commercial Amusement
3. Automobile Service Station
4. Lodge for Civic or Fraternal Organization
5. Restaurants or cafes with more than a Class “C” liquor license.

6. Bed and Breakfast facilities. Subject to the provisions of Section 4.14.

C. DIMENSIONAL STANDARDS. In the “RC” Recreation Commercial zone the following dimensional standards shall apply.

1. Height. Buildings, structures or portions thereof shall not be erected to exceed a height of two and one-half stories or 35 feet, excluding necessary public utilities and services.
2. Area. No minimum lot size is required except as follows:
 - (a) The minimum area for automobile service stations, restaurants and cafes shall be 5,000 square feet.
 - (b) The minimum lot area for motels, hotels, or RV parks shall be 10,000 square feet.
 - (c) Yards. None required except where abutting a residential zone, the setback requirement of the residential zone shall apply to the abutting yards.

D. PARKING REGULATIONS.

1. Section 4.8 shall apply. Expansion or redevelopment of existing developed areas may seek a variance to these regulations under Article 6 of this Ordinance.
2. Parking Area Approval. Sufficient off-street parking shall be required for all uses. A parking plan shall be approved by the Planning Commission prior to permit approval. The area must be surfaced with asphaltic concrete, or other type of surfacing approved by the Planning Commission.

E. SANITATION REGULATIONS. Before any structure or building is occupied it must be connected to the city sewer system.

F. 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 shielded or hooded to prohibit glare to impact adjoining properties.

SECTION 3.9 – COMMERCIAL RESIDENTIAL TRANSITION “CRT”

The purpose of this zone is to provide for the long-term expansion of the downtown core business district in the City. The City’s main commercial area stretches from Sixth Street to Fourth Street, approximately a 2 block area. The intent of this Zone is to allow the gradual transition from residential to commercial uses along the upper reaches of Deschutes Avenue, from Sixth Street to Barnum Street, in a half-block depth on either side of Deschutes Avenue. There are a number of existing single family residences in this area at this time. The intent is to allow the gradual transformation of those residences into commercial activities over time. It is the intent of the City to allow the residential uses to continue and to even be expanded meeting the requirements of the MD-R Residential Zone when those expansions are proposed. However, future residents

need to be aware that this area is intended to develop commercially as the need for additional commercial development arises.

A. PERMITTED USES.

1. Single family dwellings, which must meet the requirements of development standards listed in the MD-R Zone.
2. Accessory structures to single family dwellings, which meets the setback requirements of the MD-R Zone.
3. Retail/Commercial. Establishments which take place entirely within an enclosed structures, including commercial activities within existing residential structures. Such structures must meet the occupancy requirements for both commercial and residential activities through the Oregon State Building Codes. Site Plan Review required.
4. Professional offices. Site Plan Review required.

B. CONDITIONAL USES.

1. Retail trade establishments in which activity takes place outside an enclosed structure. For example, drive-up or drive-through facilities; taverns with outside seating; commercial amusements; hotel, motel, and gasoline service stations.

C. DIMENSIONAL STANDARDS. In the CRT Commercial/Residential Transition Zone, the following dimensional standards shall apply.

1. Height. Buildings, structures or portions thereof shall not be erected to exceed a height of two and one-half stories or 35 feet, excluding necessary public utilities and services.
2. Area.
 - (a) Yards. For residential dwellings or combination thereof, the dimensional standards of the MD-R Zone shall apply.
 - (b) Yards. For commercial structures, at street level the development standards of the General Commercial Zone shall apply.

D. PARKING REGULATIONS (much discussion needed here).

1. Parking area approval. Sufficient off-street parking shall be required for all uses. A parking plan shall be submitted along with the application. The area must be surfaced with asphaltic concrete. or other type of surfacing approved by the Planning Commission.

SECTION 3.9 – INDUSTRIAL “I”

It is the purpose of this zone to provide areas for the establishment of light and heavy industrial uses essential to the development of employment opportunities and a balanced economic base for the community with a minimum of conflict between other uses. All industries shall provide methods to protect the community from hazards and nuisances which can be prevented by processes of control.

Buildings or structures, hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the Industrial zone shall comply with the following regulations:

A. PERMITTED USES. Subject to Site Plan Review.

1. The uses allowed include limited industrial activities, such as manufacturing, processing, warehousing, and outside storage. With the exception of a caretaker's facility, no residential use is allowed.

2. Public utilities and service facilities.
- B. **CONDITIONAL USES.** Other developments shall be considered by the Planning Commission on an individual basis.
1. **Automobile wrecking yard.**
- C. **DIMENSIONAL STANDARDS.** In the “I” Industrial zone the following dimensional standards shall apply.
1. Height. Buildings, structures or portions thereof shall not be erected to exceed a height of two and one-half stories or 35 feet, excluding necessary public utilities and services.
 2. Area. No minimum lot size required.
 3. Yards.
 - (a) Front Yard. There shall be a front yard of not less than 20 feet.
 - (b) Side and Rear Yard. There shall be a side and rear yard of not less than 10 feet.
- D. **PARKING REGULATIONS.** Section 4.8 shall apply. Expansion or redevelopment of existing developed areas may seek a variance to these regulations under Article 6 of this Ordinance.
1. One parking space shall be provided on the site for each employee.
- E. **SANITATION REGULATIONS.** Before any structure or building is occupied, it must be connected to the City sewer if available.
- F. **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 shielded or hooded to prohibit glare to impact adjoining properties.

SECTION 3.10 – OVERLAY DISTRICT

It is the purpose of the Overlay Districts to identify areas in which special permit procedures must be followed prior to the approval of any use, whether permitted outright or conditionally, in the zone in which the Overlay District is located. The Overlay Districts are established to protect against property loss or personal injury due to geologic hazards and to protect the scenic value of the Deschutes River.

- A. **FLOOD HAZARD DISTRICT.** Buildings and structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the Flood Hazard District shall comply with the requirements of all City ordinances relating to flood areas in addition to the requirements for that zone.
- B. **GEOLOGIC HAZARD DISTRICT.** Site specific evaluations of slope stability, ground water, and deep slide activity for proposed developments in identified hazardous areas shall be required prior to permit review; and that those costs of the site evaluation be borne by the developer.
- C. **SCENIC WATERWAY DISTRICT.** Development proposals within the Scenic Waterway District must first be approved by the State Parks and Recreation Division Rivers Program. Any outright Permitted Use allowed by the Zoning Ordinance which is not visible from the river, although it is within the scenic waterway, shall be allowed without any additional conditions or requirements by the City, other than those required by the Zoning Ordinance.

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Article 4. Supplementary Provisions

SECTION 4.1 – MAINTENANCE OF MINIMUM ORDINANCE 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 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.

SECTION 4.2 – ACCESS

Every lot shall abut a street, other than an alley, for at least 25 feet.

SECTION 4.3 – GENERAL PROVISIONS REGARDING ACCESSORY USES

An accessory use shall comply with the requirements for a principal use, except as this ordinance specifically allows to the contrary.

SECTION 4.4 – FENCES

A fence or hedge within a front yard or street side yard shall not exceed an elevation six feet above the street curb elevation except within the vision clearance area as specified in Section 4.13.

SECTION 4.5 – MANUFACTURED AND MOBILE HOMES ON INDIVIDUAL LOTS

- A. The mobile home unit shall be manufactured after June 15, 1976, and bear the Oregon Department of Commerce "Insignia of Compliance." All pre-owned and pre-occupied units (i.e. used) shall be inspected by a certified Building Official prior to installation and occupancy to insure compliance with applicable standards required for the "Insignia of Compliance" and to insure that such units are in such a condition as to not be detrimental to the public health, safety and general welfare or to adjoining properties. The applicant shall provide such certification, at the applicant's expense, to the City prior to receiving the City's approval of a Mobile Home Movement Permit or a Mobile Home Placement Permit.
- B. Manufactured or Mobile Home Design Standards:
1. Single wide units: Defined as an individual section not including tipout or extended sections and shall:
 - (a) Be at least 14 feet wide and shall contain at least 700 square feet of living space as determined by measurement of exterior dimensions of the unit, exclusive of any trailer hitch device.
 - (b) Have wood siding or other comparable siding to other single family residential structures in the City.
 - (c) Have composition or fiberglass roofing shingles comparable to other single family residences in the City.
 2. Double wide units: Defined as the combining of two or more sections at the site to create a single family residence shall:
 - (a) Shall enclose a living area of at least 1,000 square feet as determined by measurement of exterior dimensions of the unit, exclusive of any trailer hitch device.
 - (b) The manufactured home shall have a pitched roof, with a slope of a nominal three feet in height for each 12 feet in width.
 - (c) 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

residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City.

C. The following siting standards apply to all units. The mobile home shall:

1. Be installed according to manufacturer's instructions approved by the State Department of Commerce, and all road and transient lights, wheels and the hitch shall be removed.
2. Be placed on an excavated and back-filled foundation and enclosed at the perimeter such that no more than 16 inches of the enclosing material is exposed above grade. The enclosing material used shall be in compliance with the Oregon State Building Codes in effect at the time of home placement. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the 16 inch limitation shall not apply.
3. The mobile home shall have a continuous perimeter of skirting that shall be composed of the same texture and finish as the exterior of the mobile home. The skirting shall be of a non-corrosive, non-combustible material, or shall be of brick, concrete, or masonry block. Such skirting shall be secure against the entrance of animals, but there shall be provisions for ventilation and access to the space under the unit.
4. All plumbing, electric and gas service connections shall be made according to instructions approved by the State Department of Commerce.
5. All mobile home accessory buildings and structures shall comply with State and local construction and installation standards. Mobile home accessory structures include porches and steps, awnings, cabanas, carports, or any other structure or addition that depends in part on the mobile home for its structural support, or in any manner is immediately adjacent to or attached to the mobile home, excluding decks. Such structures or additions shall not total more than 30% of the total living space of the mobile home and such structures or additions combined. Roofing and siding materials shall be of similar material and color and complimentary to the existing mobile home unit. Ramadas shall not be permitted.
6. The owner of the property shall remove the foundation and all accessory structures and additions to the mobile home and permanently disconnect sewer, water and other utilities if the mobile home is removed from its foundation unless otherwise authorized by the City. In the event the owner fails to accomplish said work within 30-days from the date on which the mobile home is moved, the City may perform such work and place a lien against the property for the cost of such work. This condition shall not apply in the event that the mobile home is replaced on the original foundation, or on the original foundation as modified, or by another approved mobile home within 30-days of the original unit's removal. Said lien may be initiated by the City Council.

SECTION 4.6 – MANUFACTURED OR MOBILE HOME PARK

A mobile home park shall be built to state standards in effect at the time of construction and shall comply with the following additional provision:

- A. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.
- B. The space provided for each mobile home shall be provided with piped potable water and electrical and sewage connections.
- C. Each space for a mobile home shall contain not less than 1,600 square feet exclusive of space provided for the common use of tenants, such as roadways, general use structures, parking spaces, walkways and areas for recreation and landscaping.
- D. Spacing and setback requirements must adhere to State design standards.

- E. A mobile home permitted in the park shall meet the following standards as determined by an inspection by the building official.
 - 1. It shall have a State Insignia indicating compliance with Oregon State mobile home construction standards in effect at the time of manufacture and including compliance for reconstruction or equipment installation made after manufacture.
 - 2. Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the State standards for mobile home construction evidenced by the insignia.
 - 3. It shall contain not less than 225 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device.
 - 4. It shall contain a water closet, lavatory, shower or tub, and a sink in a kitchen or other food preparation space.
- F. A mobile home permitted in the park shall be provided with a continuous fire-proof skirting, and if a single-wide unit, shall be tied down with devices that meet state standards for tie-down devices.
- G. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the park.
- H. The land which is used for park purposes shall be surrounded except at entry and exit places by a sight-obscuring fence or hedge not less than four feet or greater than six feet in height. The fence or hedge shall be maintained in a neat appearance.
- I. If the park provides spaces for 50 or more mobile home units, each vehicular way in the park shall be named and marked with signs which are similar in appearance to those used to identify public streets. A map of the named vehicular ways shall be provided to the fire department.
- J. If a mobile home space or permanent structure in the park is more than 500 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants and hydrants shall be provided within 500 feet of such space or structure. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

SECTION 4.7 – A MANUFACTURED, MOBILE HOME, OR RV AUTHORIZED AS A TEMPORARY RESIDENCE ON AN INDIVIDUAL LOT

- A. **The unit** when authorized as a temporary residence on an individual lot shall comply with the following additional provision:
- B. The **unit** shall be occupied by the owner of the lot or contractor on which the mobile home is located.
- C. The **unit** shall be placed upon a lot for which a building permit for a housing unit has been obtained.
- D. The **unit** shall be occupied only during a period in which satisfactory progress is being made toward the completion of the housing unit on the same site.
- E. Electric, water and sewer utility connections shall be made to the **unit**.
- F. The owner of the lot agrees to remove the **unit** from the lot not later than eighteen months from the date on which the building permit for the housing unit is issued or not later than two months following the completion of the housing unit, whichever occurs first.
- G. The owner of the lot agrees to remove all evidence that the **unit** has been on the lot within thirty days after the removal of the **unit**. **The Planning Commission may grant an extension if conditions warrant.**

SECTION 4.8 – OFF-STREET PARKING REQUIREMENTS

It is the purpose of this section to provide standards for off-street parking.

- A. When, under the terms of this Ordinance, off-street parking is required, the following standards shall be applied. Where there is a combination of uses, the more stringent standard shall apply, i.e. retail sales store and raft storage area.

<u>Use</u>	<u>Standard</u>
1. Commercial / Residential	
(a) Motel	One space per unit
(b) Hotel	One space per two guest rooms
(c) Boarding house	One space per two boarders
(d) Mobile home parks	Two spaces per mobile home space
2. Institutions	
(a) Convalescent hospital, rest home, home for the aged, nursing home, sanitarium, welfare or correctional institution, resident institution for children	One space per each five beds
(b) Hospitals	One space per each two beds, including bassinets
3. Places of Public Assembly	
(a) Nursery schools	Two spaces per teacher
(b) Elementary schools	A minimum of one space per classroom. Where auditorium is available, one additional space per 100 square feet of open floor area of the main auditorium and one additional space for each 14 seats or 28 feet of bench length where there is fixed seating.
(c) Junior high and High Schools	A minimum of one space per classroom. Where auditorium is available, one additional space per 60 square feet of open floor area of main auditorium and one space for each 9 seats or 18 feet in bench length where there is fixed seating.
(d) Library	One space per 500 square feet of reading area.
(e) Churches	One space per each 4 seats or 8 feet of bench length in main assembly room or 75 square feet of area
4. Commercial	One space for each employee and
(a) Retail sales or service store except as provided in Subpart B of this subsection	One space for each 300 square feet of floor area
(b) Retail store handling primarily bulky merchandise such as furniture, appliances, auto sales or servicing bulky items such as welding and cabinet shops	One space per each 500 square feet of floor area
(c) Banks, office buildings, business or professional buildings, including medical clinics	One space per each 300 square feet of floor area
(d) Eating or drinking establishments, including pool halls	One space per each 200 square feet of patron serving area
(e) Outdoor commercial use, i.e. rafting, outside food service, or outside display	One space per 100 square feet of outside sales or service area.
5. Commercial, Amusement	
(a) Theaters, dance halls, community clubs, skating rinks, public meeting places	One space per each 100 square feet of open assembly area and if fixed seating is provided, one space per each eight seats or 16 feet in bench length.
(b) Bowling alleys	Three spaces per alley
6. Industrial	One space per employee on the largest shift
(a) Storage warehouse, manufacturing establishment	One space per employee on the largest shift plus one space per 700 square feet of patron serving area

- B. No inoperable and/or unlicensed vehicles shall be parked on a public right-of-way for more than 48 hours.

- C. Commercial vehicles, trucks, vans, recreational vehicles, including campers, fifth-wheel trailers, motor homes, boats, snowmobiles, rafts, and trailers shall not be allowed to be parked on the public right-of-way for more than 48 hours.

SECTION 4.9 – RIPARIAN HABITAT PROTECTION

There shall be no construction of structures within twenty (20) feet of the mean high water lines of the Deschutes River. No unnecessary excavation or removal of vegetation shall be permitted.

SECTION 4.10 – HISTORIC STRUCTURE PRESERVATION

Upon receiving an Application for demolition or major exterior alteration involving an historic area, site, structure or object, as designated by the Comprehensive Plan, the Planning Commission in a public meeting shall review the application to determine its conformance with the Historic Preservation factors of this Ordinance.

A. Demolition Procedure

If it is determined the Land Use action will result in the demolition or extensive exterior modification of any historical building, the Planning Commission shall review the application taking into account the following:

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 site.
4. The character of the neighborhood.
5. All other factors the Planning Commission feels are appropriate.

Following the Planning Commission review, the Planning Commission may approve or deny the permit for Land Use action or delay action for sixty (60) days to allow cognizant agencies to explore alternatives. If no suitable alternatives are available, the permit may be issued. The Planning Commission, upon finding significant progress is being made toward preserving the structure, may extend the delay for an additional thirty (30) days.

B. Major Exterior Alteration Procedure

Exterior alterations shall be in accordance with the following:

1. Upon receipt of an application for a major exterior alteration of an historic structure listed in the Comprehensive Plan, the Planning Commission, in a 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 defined by this section include any change or alteration of a facade, texture, design, materials, fixtures or other treatment.
3. All applications for major exterior alteration shall be accomplished by plans and specifications of the proposed alteration. The Planning Commission may request additional sketches and other information deemed necessary to make an informed decision.
4. In order to approve the application, the Planning Commission 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 Planning Commission deems it necessary to achieve the above objectives. The Planning Commission shall disapprove the request if the proposal would reduce the resource's value or historic significance.

Conditions attached to a permit for major exterior alteration of a historic structure shall be limited to permit requirements addressing architectural design, surface texture, materials, fixtures or other facade or surface treatments which are deemed inconsistent with the integrity of the historic values being preserved.

The Planning Commission shall not make any recommendation or requirement except for the purpose of preventing developments out of character with the historic aspects of the resource.

5. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design or the construction, reconstruction, or alteration of such feature which the building inspectors certify is required by the public safety because of unsafe conditions.

SECTION 4.11 – ACCESSORY BUILDING SETBACK REQUIREMENTS

An accessory building, of **200** square feet or less, not requiring a building permit, shall not be required to meet the side and rear yard requirements except on the side yard of a corner lot. Detached accessory building shall be five (5) feet from the main building.

SECTION 4.12 – EXEMPT ACTIVITIES

The following activities are exempt from requirements of this ordinance:

- A. Transportation facilities and activities that include, but are not limited to:
 1. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
 2. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
 3. Projects specifically identified in the State Transportation System Plan as not requiring further land use regulation.
 4. Landscaping as part of a transportation facility.
 5. Emergency measures necessary for the safety and protection of property
 6. Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the State Transportation System Plan except for those that are located in exclusive farm use or forest zones.
 7. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
- B. Legal access connections in place as of [date of adoption] that do not conform with the standards herein are considered nonconforming features and shall be brought into compliance with applicable standards under the following conditions:
 1. When new access connection permits are requested;
 2. Change in use or enlargements or improvements that will increase trip generation.

SECTION 4.13 – VISION CLEARANCE AREAS.

- A. 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. Such corner lots of parcels shall be provided with and maintain a vision clearance area. A vision clearance area is defined as a triangular area formed at a corner lot or parcel by the intersection of dedicated public rights-of-way lines and a straight line joining said lines through points twelve (12) feet back from their intersection. The vision clearance area shall provide an area unobstructed vision from three and one-half (3-1/2) feet to eight (8) feet above the top of the curb. Natural topographic features, utility poles, and tree trunks are excluded from this requirement.

SECTION 4.14 – BED AND BREAKFAST FACILITIES DEVELOPMENT STANDARDS. A bed and breakfast facility approved as a conditional use in the residential zones of the City shall have the following approval standards.

- A. The structure shall retain the characteristics of a single family dwelling.
- B. The number of guest rooms shall be limit to five (5) and the number of guests shall be limited to ten (10).
- C. In addition to the required off-street parking for each residential use, one (1) off-street parking space for each bed and breakfast guest shall be provided.
- D. Signs shall be limited to one non-illuminated sign, not exceeding one and one-half (1-1/2) square feet. No off-premises signs are permitted.
- E. Submission of an acceptable site plan that meets off-street parking requirements and provides landscaping appropriate to a residential neighborhood.

SECTION 4.15 – SETBACK REQUIREMENTS. The applicable setback requirements specified in each zone are required of all structures including primary and accessory buildings, decks, and porches which are thirty inches (30”) or more above grade.

SECTION 4.16 – WIRELESS TELECOMMUNICATIONS FACILITIES

- A. **APPLICATION REQUIREMENTS.** An application for a wireless telecommunications facility shall comply with the following meeting, notice and submittal requirements.
 - 1. **Neighborhood Meeting.** Prior to scheduling a pre-application conference with the Planning Department staff, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. Notice shall be in writing and shall be mailed no less than 10 days prior to the date set for the meeting to owners of record of property within a) 1,320 feet for a tower or monopole no greater than 100 feet in height, and b) 2,000 feet for a tower or monopole at least 100 feet and no higher than 150 feet in height. Such notice shall not take the place of notice required by Section 9 of this ordinance. A tower or monopole more than 150 feet shall require a variance as required in Section 7 of this ordinance, but does not require additional notice requirements as set forth in Subsection (B).
 - 2. **Pre-Application Conference.** The applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with the Planning Department staff.
 - 3. **Submittal Requirements.** An application for a conditional use permit for a wireless telecommunications facility shall include:
 - (a) A copy of the blank lease form.
 - (b) A copy of the applicant’s Federal Communications Commission license.
 - (c) A map that shows the applicant’s search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.
 - (d) A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under subsection (1)(A) of this Section.
 - (e) A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date and location of the meeting and a list of the meeting attendees.

- (f) A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, and any equipment shelter, utility connections, and any fencing proposed to enclose the facility.
- (g) A copy of the design specifications including proposed colors and elevation of an antenna array proposed with the facility.
- (h) An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.
- (i) A copy of a letter of determination from the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) whether or not aviation lighting would be required for the proposed facility.

B. APPROVAL CRITERIA. An application for a wireless telecommunication facility will be approved upon findings that:

1. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antenna on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.
2. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residents.
3. The applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.
4. A tower or monopole is finished with natural wood colors or other colors approved by the Planning Commission.
5. A required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODA.
6. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.
7. Any tower or monopole shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting that statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.
8. An approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner, or as set forth in the lease between the landowner and the applicant.

SECTION 4.17 - MOBILE HOME AUTHORIZED AS TEMPORARY RESIDENCE FOR CARE OF RELATIVE IN CONJUNCTION WITH EXISTING RESIDENTIAL USE:

A. PURPOSE AND INTENT.

1. It is the intent of the temporary use permit section to provide a set of procedures and standards for temporary use of structures which, because of personal hardship needs, require special consideration for temporary usage after demonstration or temporary need and a finding of no adverse impact to the welfare of adjacent properties and the community as a whole.

B. As a temporary use in every zone, the City may allow one accessory mobile home dwelling complying with the standards of Section 4.5 of this Chapter, except subsections 4.5(B)(1)(a) and 4.5(B)(2)(a) and the manufactured date of June 15, 1976 in subsection 4.5(1), and providing that no additions to the mobile home shall be permitted in conjunction with a primary dwelling with the following findings:

1. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped or infirm relative who a medical doctor certifies is in need of this kind of care or custody.
2. Public utilities and facilities can be provided. Municipal water wastewater collection facilities must be connected to the unit.
3. There is not significant adverse impact to the welfare of adjacent properties and the community as a whole.

C. A temporary use permit granted under this Section is void when the elderly, mentally handicapped or infirm relative who is the subject of the permit moves to another residence, or is absent from the residence for more than sixty (60) days or leaves the residence with no likelihood of returning. Exception to the sixty (60) day limit can be provided for because of extraordinary circumstances such as an extended hospitalization.

D. Within thirty (30) days of the permit becoming void or revoked, the accessory mobile home dwelling shall be removed by the owner of the real property unless otherwise approved by the City.

E. The City may review permits issued under this Section at any time and may revoke the permits when they are found to be not in compliance.

F. SITING. The Standard for the temporary accessory dwelling units are as follows:

1. Setbacks. The temporary residential unit must meet all the applicable setback standards of the zone in which the property is located.
2. Type of Unit.
 - (a) *Mobile Home* – Must meet all the requirements of Section 4.5. The time limit for such placement removal is one year from date of approval unless specifically extended by the Planning Commission.
 - (b) *Recreational Vehicle including park model RV's* – The unit must have been manufactured on or after July 1, 1991 and be self contained, having kitchen and bathroom facilities. The time limit for the placement removal is six months from the date of the approval unless specifically extended by the Planning Commission.
3. Public and Municipal Facilities.
 - (a) The temporary dwelling unit must be connected to the City's water and wastewater collection facilities. The City's standard monthly user fees shall be changed during the period the accessory dwelling unit is placed upon the property.

- G. REMOVAL. In the event it becomes necessary for the City to enforce a removal order, the property owner shall be responsible for all costs for the removal of the unit.

SECTION 4.18 – ARCHITECTURAL EXTERIOR FEATURES REQUIRED. Each single family dwelling, as defined, shall be provided with at least four (4) of the following list of architectural exterior features.

- A. Dormers.
- B. Gables.
- C. Recessed entries.
- D. Covered porch entries.
- E. Cupolas or towers.
- F. Pillars or posts.
- G. Eaves (minimum 6 inch projection).
- H. Off-sets in building face or roof (minimum 16 inches).
- I. Window trim (minimum 4 inches wide).
- J. Bay windows.
- K. Balconies.
- L. Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation and similar features).
- M. An alternative feature providing visual relief, similar to options A through L, above.

SECTION 4.19 – SPECIAL STANDARDS FOR BARN'DMINIUMS AND CARGO CONTAINERS

- A. Barn'dminiums and Cargo Containers have certain design characteristics that denote the original intended use of the structure was for other than a single family dwelling. These structures have a more visual impact on a residential neighborhood than a site built or manufactured dwelling would have. These units shall be placed on a concrete foundation, have a 3/12 pitched roof with a minimum of 6 inch eaves, minimum windows of 8% maximum of 15% of the floor area of each habitable space. Habitable space is defined as: a space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage for utility spaces and similar areas are not considered habitable spaces. The 15% maximum is based upon anticipated energy loss difference that can be restored by increasing the R value of the window, walls, floor, ceiling (or a combination thereof) to compensate for the larger glazing area. There shall be a common type of siding material on each unit. In addition, a Barn'dminium or Cargo Containers Conversion shall also be required to have an approval from the City for at least 2 features **in addition to Item B. Gables and Item E. Eaves** listed in the Architectural Exterior Features, Section 4.18, above.

SECTION 4.20 – YURTS

- A. A yurt or yurts may be allowed in the RC Zone following the Conditional Use Permit procedure. However, the use of the yurt is for short term recreational purposes only. These units are not intended for residential use.

Article 5. Conditional Uses

SECTION 5.1

- A. Conditional uses listed in this ordinance may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and conditions in this article. In permitting a conditional use or the modification of a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, any additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding property or the City as a whole.
- B. STANDARDS FOR GRANTING CONDITIONAL USES.
1. The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies of the City.
 2. Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the {a} livability, {b} value and {c} appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
 3. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
 4. The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.
- C. PLACING CONDITIONS ON A PERMIT. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following:
1. Increasing the required lot size or yard dimension.
 2. Limiting the height, size or location of buildings.
 3. Controlling the location and number of vehicle access points.
 4. Increasing the street width.
 5. Increasing the number of required off-street parking spaces.
 6. Limiting the number, size, location and lighting of signs.
 7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 8. Designating sites for open space.
 9. Requiring proper drainage and pest control.
 10. Placing time limits on the use and requiring periodic reviews.
- D. PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.
1. Application for a conditional use. A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the **Zoning Ordinance**

Administrator. The Planning Commission may require other drawings or information necessary to an understanding of the proposed uses and its relationship to surrounding properties.

2. Public hearings on conditional use. Before the Planning Commission may act on a request for a conditional use, it shall hold a public hearing.
3. Notification action. Within 10 days after a decision has been rendered by the Planning Commission with reference to a request for conditional use, the City shall provide the applicant with written notice of the Decision of the Commission.
4. Time limit on a permit for conditional use. Authorization of a conditional use shall be void after 6 months, unless substantial construction pursuant thereto has taken place. However, the Planning Commission may, at its discretion, extend authorization for an additional 6 months on request.

E. RESUBMITTAL.

If a request is denied by the City staff or hearing body and no appeal is filed, or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six (6) months after the date of final denial. An application may be denied without prejudice and a waiver of the six (6) month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six (6) month restriction.

F. FINAL ACTION.

Except as provided for under ORS 227.178, the City shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within 120 days from the date a complete application is submitted to the City. Within thirty (30) days of receipt of an application, the City will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the thirty (30) day period. The 120-day time period will commence on the date the application is deemed complete.

G. EXISTING LAND USES.

1. Land uses which lawfully existed at the time of the adoption of this ordinance and which would be considered as conditional uses in this ordinance shall be considered as existing conditional uses.
2. An expansion, enlargement or change of use to another listed conditional use shall be required to be approved by the Planning Commission in accordance with this article.

H. REVOCAION OF CONDITIONAL USE PERMIT.

1. Any conditional use permit shall be subject to denial or revocation by the Planning Commission if the application includes or included any false information, or if the conditions of approval have not been complied with or are not being maintained.
2. In order to consider revocation of a conditional use permit, the Planning Commission shall hold a public hearing as prescribed under Article 5 of this Ordinance in order for the holder of a conditional use permit to show cause why the permit should not be revoked.
3. If the Planning Commission finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making corrections. If corrections are not made, revocation of the conditional use permit shall become effective ten days after the time specified.
4. Reapplication for a conditional use which has been revoked cannot be made within one year after the date of the Planning Commission's action, except that the Planning Commission may allow a new application to be considered if new evidence or a change in circumstances warrant it.

SECTION 5.2 – 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 Article 5 of this Ordinance.

SECTION 5.3 – 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 of 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 following:

- A. Advances in technology and design.
- B. Recognition and resolution of problems created by increasing population density.
- C. A comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development, in which the design of the overall unit permits increased freedom in the placement and uses of building and the location of open spaces, circulation facilities, off-street parking areas and other facilities.
- D. The potential of sites characterized by special features of geography, topography, size or shape.

SECTION 5.4 - FINDINGS FOR PROJECT APPROVAL

The Planning Commission may approve a planned unit development if it finds that the planned unit development will satisfy standards of both Article 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.

SECTION 5.5 - 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 of 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 do 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 those building heights prescribed in the zone in which the planned unit development is proposed.

SECTION 5.6 - PROJECT DENSITY

The planned unit development may result in a density 33 percent in excess of the density otherwise permitted within the zone in which the planned unit development is to be constructed.

SECTION 5.7 - 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 Planning Commission 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.

SECTION 5.8 - 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 and public streets shall have a minimum improved (paved) width of 24 feet to accommodate two-way traffic and on-street parking.
- B. Utilities shall be underground where practicable.

SECTION 5.9 - ACCESSORY USES IN A 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. Golf course.
- B. Private park, lake or waterway.
- C. Recreation area.
- D. Recreation building, clubhouse or social hall.
- E. 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.

SECTION 5.10 - 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. The procedure for review and approval of a planned unit development is the same as contained in Article 5 of this Ordinance.

SECTION 5.11 - 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 to 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.

SECTION 5.12 - APPROVAL OF THE PRELIMINARY DEVELOPMENT PLAN

The approval of the preliminary development plan by the Planning Commission shall be binding on both the City and the applicant. However, no construction shall commence on the property until approval of the final developments plan is granted.

SECTION 5.13 - APPROVAL OF THE FINAL DEVELOPMENT PLAN

- A. The final development plan shall be submitted to the Planning Commission within six months of the date of approval of the preliminary development plan. The Planning Commission may extend for up to six months the period for filing of the final development plan. After review, the Planning Commission 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 re-examined by the Planning Commission.
- C. Within thirty (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.

SECTION 5.14 - CONTROL OF THE DEVELOPMENT AFTER COMPLETION

The final development plan shall continue to control the planned unit development after the project is completed and the 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 follows:
 - 1. Minor modifications of existing buildings or structures.
 - 2. A building or structure that is totally or substantially destroyed may be reconstructed.
- C. 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 to use regulations. The procedure shall be as outlined in Section 5.11 of this Article.

Article 6. Exceptions and Variances

SECTION 6.1 – NONCONFORMING USES

- A. A nonconforming use or structure may be continued but may not be altered or expanded. The expansion of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure which conforms with respect to use may be altered or expanded if the alteration or expansion does not cause the structure to deviate further from the standards of this ordinance.
- B. If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this ordinance.
- C. If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.
- D. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent 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. Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued by the City and construction has commenced prior to the adoption of this ordinance, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.
- F. **FINAL ACTION.** Except as provided for under ORS 227.178, the City shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within 120 days from the date a complete application is submitted to the City. Within thirty (30) days of receipt of an application, the City will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the thirty (30) day period. The 120-day time period will commence on the date the application is deemed complete.

SECTION 6.2 - GENERAL EXCEPTIONS TO YARD REQUIREMENTS

The following exceptions to yard requirements are authorized for a lot in any zone, except a corner lot. Any front yard need not exceed:

- A. The average of the front yards on abutting lots which have buildings within 100 feet of the lot, or
- B. The average of the front yard of a single abutting lot, which has a building within 100 feet, and the required depth for that zone.

SECTION 6.3 - GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

SECTION 6.4 - PROJECTIONS FROM BUILDINGS

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 24 inches into a required yard setback area.

SECTION 6.5 - AUTHORIZATION TO GRANT OR DENY VARIANCES

The Planning Commission may authorize a variance from the requirements of this ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property not authorized within the zone in which the property is located. In granting a variance, the Planning Commission may

attach conditions which it finds necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance.

SECTION 6.6 – PROCEDURE AND CIRCUMSTANCES FOR GRANTING A VARIANCE

A. Procedure for granting a variance:

1. **Application for Variance.** A property owner may initiate a request for a variance by filing an application with the Zoning Ordinance Administrator.
2. **Public Hearing on a Variance.** Before the Planning Commission may act on a request for a variance, it shall hold a public hearing in accordance with the procedures in Section 8.6.
3. **Notification of Decision.** Within ten (10) days after a decision has been rendered by the Planning Commission, the Zoning Ordinance Administrator shall provide the applicant with written notice of the decision.
4. **Time Limit for Beginning Construction on an Authorized Variance.** If construction has not begun on an authorized variance within six (6) months of the authorization, the authorization shall be null and void. The Planning Commission may, at its discretion, extend authorization for an additional six (6) months on request.

B. A variance may be granted only in the event that all of the following circumstances exists:

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 or shape, topography or other circumstances over which the owners of the property since enactment of this Ordinance have had no control.**
2. **The variance is necessary for the preservation of a property right of the applicant substantially the same as that possessed by owners of other property in the same zone or vicinity.**
3. **The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with objectives of any city plan or policy.**
4. **The variance requested is the minimum variance which would alleviate the hardship.**

SECTION 6.7 – RESUBMITTAL

If a request is denied by the City staff or hearing body and no appeal is filed, or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six (6) months after the date of final denial. An application may be denied without prejudice and a waiver of the six month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six (6) month restriction.

SECTION 6.8 – FINAL ACTION

Except as provided for under ORS 227.178, the City shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within one hundred twenty (120) days from the date a complete application is submitted to the City. Within thirty (30) days of receipt of an application, the City will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the thirty (30) day period. The one hundred twenty (120) day time period will commence on the date the application is complete.

SECTION 6.9 – ADMINISTRATIVE VARIANCES

An administrative variance may be granted by staff without the normal public hearing before the Planning Commission, provided:

- A. The variance requested is for relief of a physical or spatial requirement of this Ordinance and the variance is ten (10) percent or less of the specified requirement.
- B. Notice to affected property owners shall be required as specified in Section 8.5 of this Ordinance.
 - 1. At the end of the ten (10) day period provided for review, the City shall render a decision based upon the appropriate approval criteria for variances or conditional uses and prepare a written decision together with the findings of fact on which the decision is based.
 - 2. Anyone filing a written objection may appeal the staff decision to the Planning Commission.

Article 7. Site Plan Review

SECTION 7.1

- A. **PURPOSE.** The purpose of site plan approval is to ensure compliance with the objectives of this Ordinance in those zoning districts where inappropriate development may cause a conflict between uses in the same or adjoining zoning district by creating unhealthful or unsafe conditions and thereby adversely affect the public health, safety and general welfare.
- B. **SITE PLAN COMMITTEE.** The Planning Commission, as a Site Plan Committee, shall carry out the duties set forth in this section. This Committee shall have the authority to approve, disapprove or to approve with conditions the site plans for all proposed new buildings or structures subject to site plan review. In the review of plans, the Site Plan Committee shall be governed by the purposes and objectives of this section as set forth in subsection A, C, and D. Except as provided for under ORS 227.178, the City shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within 120 days from the date a complete application is submitted to the City. Within thirty (30) days of receipt of an application, the City will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the thirty (30) day period. The 120-day time period will commence on the date the application is deemed complete.
- C. **PROCEDURES.** Before any building permit shall be issued in any zoning district requiring site plan approval, a site plan for the total parcel or development shall be prepared and submitted not less than twenty-one (21) days prior to the meeting date to the Site Plan Committee for approval. The site plan shall be drawn to scale and shall indicate the following.
1. Dimensions and orientation of the parcel
 2. Locations of buildings and structures, both existing and proposed
 3. Location and layout of off-street parking and loading facilities
 4. Location of points of entry and exits for motor vehicles, and internal traffic circulation pattern
 5. Location of walls and fences and indication of their height and materials of their construction
 6. Indications of exterior lighting standards and devices
 7. Location and size of exterior signs and outdoor advertising
 8. Topography, grading and slopes where they affect relationship of the buildings and drainage
 9. Indications of the heights of buildings and structures
 10. Location and type of landscaping. A nominal amount of landscaping for new structures or parking areas is encouraged. The City discourages the use of Black Locust trees as a urban planning in the community.
 11. Any other architectural or engineering data as may be required to permit necessary findings that the provisions of this Ordinance are complied with
 12. A statement of proposed operations shall accompany the site plan. The statement should include a brief narrative of the nature of the activity, including number of employees, method of import and export, waste materials, etc.

13. Where an attachment or minor addition to an existing building or structure is proposed, the site plan shall indicate the relationship of said proposal to the existing development, but need not include other data required in paragraphs 1 through 12, above.

D. APPROVAL OR DISAPPROVAL. ~~Within thirty (30) days after the submission of a complete site plan, the Site Plan Approval Committee shall approve, approve with conditions, or disapprove the site plan. Failure to render a decision within the thirty (30) day period shall be deemed approval of the plan as submitted. However, the Committee may move to continue the meeting until a time and date specified prior to rendering a decision.~~ Dedication of land for roads, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system 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 roads that serve the proposed use where the existing transportation system may be burdened by the proposed use. In approving the plan, the Committee shall find that all provisions of this Ordinance are complied with; and that all buildings and facilities, access points, parking and loading facilities, signs, lighting and walls or fences are to be arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected and that there will be no adverse effect on surrounding property.

E. REVISIONS. Revisions made by the applicant to an approved site plan shall be made pursuant to the procedures set forth in this section. Where required, site plan approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction alterations, improvement or use in any manner except in complete and strict compliance with the approved site plan.

Article 8. Amendments

SECTION 8.1 - FORMS OF AMENDMENTS

There are two types of amendments to this ordinance:

- A. Amendment to the text. (Legislative Revision)
- B. Amendment to the Map. (Legislative Revision or Quasi-Judicial Change)

SECTION 8.2 - LEGISLATIVE REVISIONS

- A. Proposed amendments to this ordinance shall be deemed legislative revisions if:
 - 1. The proposed amendment involves the text of this ordinance, and/or
 - 2. The proposed amendment involves the map, when such an amendment would have widespread and significant impact beyond the immediate area of the proposed amendment.
- B. Legislative revisions shall be initiated by:
 - 1. A majority vote of the City Council; or
 - 2. A majority vote of the Planning Commission; or
 - 3. A request by the City Attorney or City Planner.

SECTION 8.3 – CRITERIA FOR AMENDMENTS

- A. The applicant for an amendment must show that the proposed change conforms with the Comprehensive Plan.
- B. A plan or land use regulation amendment significantly affects a transportation facility if it:
 - 1. Changes the functional classification of an existing or planned transportation facility;
 - 2. Changes standards implementing a functional classification system;
 - 3. Allows types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
 - 4. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.
- C. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
 - 1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
 - 2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
 - 3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

SECTION 8.4 - QUASI-JUDICIAL REVISIONS

- A. A proposed amendment to this ordinance shall be deemed a quasi-judicial change if the proposed amendment involves the Zoning map and does not have widespread and significant impact beyond the immediate area of the proposed amendment.
- B. Quasi-judicial changes may be initiated by:
 - 1. Property owners or contract purchaser or an authorized agent; or
 - 2. A majority vote of the City Council; or
 - 3. A majority vote of the Planning Commission; or
 - 4. A request by the City Attorney or City Planner.
- C. In case of a controversy as to whether an amendment be deemed a legislative or quasi-judicial matter, city staff shall make the initial determination. The staff decision may be appealed to the Planning Commission.

SECTION 8.5 – HEARING REQUIREMENTS FOR LEGISLATIVE OR QUASI- JUDICIAL REVISIONS TO THE ZONING ORDINANCE

Public hearings, under the provisions of Section 8.5, shall be required for both legislative and quasi-judicial amendments to the Zoning Ordinance. A public hearing before the Planning Commission is mandatory. A public hearing before the City Council is optional. (See procedures in Section 8.7 below).

SECTION 8.6 – NOTICE REQUIREMENTS

For both legislative and quasi-judicial revisions to the Zoning Ordinance, a series of public notices are required. These notices are as follows:

- A. Post-acknowledgement Plan Amendment Notice to DLCD.

The Department of Land Conservation and Development requires notice of the first evidentiary hearing on a proposed amendment to a jurisdiction’s zoning ordinance to be submitted to the Department on their forms at least **thirty-five (35)** days in advance of the first hearing. Notice must be in the Salem office **thirty-five (35)** days or earlier than the date of the **first evidentiary** hearing before the Planning Commission.
- B. Notices Of Both Legislative And Quasi-Judicial Hearings.

Notices of both legislative and quasi-judicial hearings must be **posted on the City’s website and posted on the local bulletin boards** following the requirements of Section 8.5 of this Ordinance.
- C. Legislative Revisions—Ballot Measure 56.

Ballot Measure 56, passed by general vote in the 1998 election, requires specific notices be mailed to all affected landowners in the instance of a legislative revision in which a rezoning will occur. These must be mailed not more than forty (40) nor less than twenty (20) days from the date of the first hearing.
- D. Quasi-Judicial Hearings.

Quasi-judicial hearings require notices to all affected property owners within one hundred (100) feet of the subject property be mailed at least ten (10) days before each hearing on the proposed amendment.

SECTION 8.7 – LEGISLATIVE OR QUASI-JUDICIAL AMENDMENT PROCEDURAL PROCESS

The Planning Commission shall conduct a public hearing on the proposed amendment. Within forty-five (45) days after the hearing, the Planning Commission shall render a decision. The decision of the Planning Commission shall then be brought before the City Council along with a summary of the Planning Commission’s proceedings and

findings of fact, at the second regular Council meeting following said Planning Commission decision, except that in no event shall the decision be brought to the City Council until after the time for appeal has elapsed. The City Council shall then review the decision of the Planning Commission on the record without hearing further evidence. It shall either affirm the decision of the Planning Commission or set the matter for hearing “de novo” before the City Council. The City Council must take final action on an amendment request. Amendments shall be made by ordinance.

SECTION 8.8 – LEGISLATIVE AMENDMENTS

Legislative amendments are broad-based amendments which impact the whole City not just a specific neighborhood or area. Most text amendments are legislative. No specific hearing procedure is required. The Planning Commission and/or City Council are acting as legislators, making new law for the City. It is suggested, in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.

SECTION 8.9 – QUASI-JUDICIAL HEARING REQUIREMENTS

- A. The following criteria must be followed in deciding upon a quasi-judicial proceeding.
1. The burden in all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.
 2. The requested zone change or conditional use must be justified by proof that:
 - (a) The change is in conformance with the Comprehensive Plan and also the goals and policies of the Plan.
 - (b) The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration.
 - (c) The public need is best served by changing the classification of the subject site in question as compared with other available property.
 - (d) The potential impact upon the area resulting from the change has been considered.
 3. Approval Criteria for Amendments.
 - (a) The applicant must show that the proposed change conforms with the Comprehensive Plan.
 - (b) A plan or land use regulation amendment significantly affects a transportation facility if it:
 - (1) Changes the functional classification of an existing or planned transportation facility;
 - (2) Changes standards implementing a functional classification system;
 - (3) Allows types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
 - (4) Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.
 - (c) Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
 - (1) Limiting allowed land uses to be consistent with the planned function of the transportation facility;

- (2) Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or
 - (3) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.
- (d) The courts will require a "graduated burden of proof" depending upon the drastic nature of the proposed rezoning.
- (e) Procedural Process of a quasi-judicial hearing.
- (1) Parties at a rezoning hearing must have an opportunity to be heard, to present and rebut evidence.
 - (2) There must be a record which will support the findings made by the decision makers.
 - (3) Pre-hearing contact must be disclosed by the decision-makers at the outset of the public hearing.
- (f) Notice to Affected Agencies.
- (1) The City of Maupin shall provide timely notice to ODOT regarding any land use action on or adjacent to a State transportation facility. Information that shall be conveyed to reviewers includes:
 - i. Project location.
 - ii. Proposed land use action.
 - iii. Location of project access point(s).

Additional information, which may be supplied to ODOT upon request, includes:

- i. Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property;
- ii. Number and direction of lanes to be constructed on the driveway, plus striping plans;
- iii. All planned transportation features (lanes, signals, bikeways, walkways, crosswalks, etc.);
- iv. Trip generation data or appropriate traffic studies;
- v. Parking and internal circulation plans for vehicles and pedestrians;
- vi. Plat map showing property lines, right-of-way, and ownership of abutting properties; and
- vii. A detailed description of any requested variance.

SECTION 8.10 – NOTIFICATION OF DECISION

Within 5 working days after a final decision on an amendment to the comprehensive plan, zoning ordinance text or plan/zone map, the **Zoning Ordinance Administrator** shall provide the applicant and the Department of Land Conservation and Development a complete copy of the City Council decision. Within 5 working days after a final

decision, the City shall also provide notice of the decision to all persons who participated in the local proceedings and requested in writing that they be given notice. The notice shall meet the requirements of ORS 197.615.

SECTION 8.11 – LIMITATION OF REAPPLICATIONS

No application of a property owner for an amendment to a zone boundary shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request, except the Planning Commission may permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

SECTION 8.12 – RECORD OF AMENDMENTS

The Recorder shall maintain records of amendments to this ordinance.

Article 9. Administrative Provisions

SECTION 9.1 - ADMINISTRATION

The Zoning Ordinance Administrator shall be appointed by the City Council. The Zoning Ordinance Administrator shall have the power and duty to enforce the provisions of this Ordinance, and the City's adopted Comprehensive Plan. The Zoning Ordinance Administrator is responsible for approving the City portions of a building permit. An appeal of a ruling or interpretation of the Administrator shall be made in writing only to the Planning Commission in accordance with Section 9.4 of this Ordinance. Fees for appeals to Planning Commission or City Council shall be set by resolution.

SECTION 9.2 - BUILDING PERMIT REQUIRED

Prior to the erection, movement, reconstruction, extension, enlargement, or alteration of any structure, a permit for such erection, movement, reconstruction, extension, enlargement, or alteration shall be obtained from the **Zoning Ordinance Administrator**. The applicant shall pay a fee as established by City Ordinance at the time the application is filed.

SECTION 9.3 - FORM OF PETITIONS (Applications and Appeals)

All petitions, applications and appeals provided for in this Ordinance shall be made on the forms provided by the City.

SECTION 9.4 - FILING FEES

Filing fees for the various Land Use actions shall be determined by resolution of the City Council.

SECTION 9.5 - PUBLIC HEARING

- A. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the City at least ten (10) days prior to the date of hearing.
- B. In addition, a notice of hearing on a conditional use, a variance, or an amendment to a zone boundary shall be mailed to owners of property within one hundred (100) feet of the property for which the variance, conditional use, or zone boundary amendment has been requested. The notice of hearing shall be mailed at least ten (10) days prior to the date of the hearing. Said notice shall:
 1. Explain the nature of the application and the proposed use or uses which could be authorized.
ORS 197.763(3)(a)
 2. List the applicable criteria from the Ordinance and the plan that apply to the application.
ORS 197.763(3)(b)
 3. Set forth the street address or other easily understood geographical reference to the subject property. ORS 197.763(3)(c)
 4. State the date, time, and location of the hearing.
ORS 197.763(3)(d)
 5. State that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to LUBA based on that issue.
ORS 197.763(3)(e) [and ORS 197.763(1)]
 6. State that failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue.
ORS 197.763(3)(f)

7. Include the name of a local government representative to contact and a telephone number where additional information may be obtained.
ORS 197.763(3)(g)
 8. State that a copy of (1) the application, (2) all documents and evidence relied upon by the applicant, and (3) applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
ORS 197.763(3)(h)
 9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost.
ORS 197.763(3)(i)
 10. Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings.
ORS 197.763(3)(j)
- C. If a proposed zone boundary amendment has been initiated by the City Council and is declared by the City Council to be a major reclassification, the mailing of individual notice is not required but such additional means of informing the public as may be specified by the Council shall be observed.
- D. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.
- E. The City Council may recess a hearing in order to obtain additional information or to service further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. **No new notices are required for a continuation of the public hearing provided the date, time, and place of the hearing are announced at the time the continuation is approved.**
- F. If an application would change the zone of property which includes all or part of a mobile home park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home park at least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change.

SECTION 9.6 - PROPOSED AMENDMENTS

The City Council may hold a public hearing on all changes to the Comprehensive Plan, Zoning Ordinance text and Plan/Zone Map. All proposed amendments shall be processed in accordance with the public hearing procedures under Section 8.6 of this Article. Text and map amendments shall also be submitted to the Department of Land Conservation and Development **thirty-one (31)** days prior to the date set for **the first evidentiary hearing** action except as provided for under ORS 197.610.

SECTION 9.7 - FINAL ACTION

Except as provided for under ORS 227.178, the City shall take final action on conditional use permits, variances, **and Site Plan Review** including the resolution of all appeals to the City Council under ORS 227.180 within 120 days from the date a complete application is submitted to the City. Within thirty (30) days of receipt of an application, the **City** will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the thirty (30) day period. The 120 day time period will commence on the date the application is complete.

SECTION 9.8 – RESUBMITTAL

If a request is denied by the City staff or hearing body and no appeal is filed, or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six (6) months after the date of final denial. An application may be denied without prejudice and a waiver of the six month restriction

granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six (6) month restriction.

Article 10. General Provisions

SECTION 10.1 - INTERPRETATION

Where a provision of this ordinance is less restrictive than another ordinance or requirement of the City, the provision or requirement which is more restrictive shall govern.

SECTION 10.2 - SEVERABILITY

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

SECTION 10.3 - ABATEMENT AND PENALTY

- A. Violation of any provision of this Ordinance or of any amendment of this Ordinance is punishable upon conviction by a fine of not more than \$100.00 for each day of violation where the offense is continuing offense.
- B. In case of a building or other structure is or is proposed to be located, constructed, maintained, repaired, altered or used, or land is or is proposed to be used, in violation of this ordinance, the building or land thus in violation shall constitute a nuisance and the City may, as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

SECTION 10.4 - APPEALS

- A. An appeal from a ruling of a **Zoning Ordinance Administrator** regarding a requirement of this Ordinance may be made only to the Planning Commission.
 - 1. An appeal to a ruling of a city administrative officer shall be submitted on a form provided by the City and filed with the **Zoning Ordinance Administrator**. Fees for appeals to Planning Commission or City Council shall be set by resolution. The Planning Commission shall consider the appeal at its next meeting and by majority vote uphold, overturn or modify the city administrative officer's ruling. A public hearing is not required.
- B. An aggrieved party may appeal an action or ruling of the Planning Commission pursuant to this Ordinance within fifteen (15) days after the Planning Commission has filed its written decision with the **Zoning Ordinance Administrator**. If the appeal is not filed within the fifteen (15) day period, the decision of the Planning Commission shall be final. If an appeal is filed, the City Council shall receive the decision and findings from the Planning Commission and shall conduct a public hearing in accord with the adopted **public hearing procedures**.
- C. The City Council may, on its own motion, review a decision of the Planning Commission provided the motion to review is made within thirty (30) days of the Planning Commission's decision.