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WASCO COUNTY

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KAREN LEBRETON COATS
COUNTY CLERK

IN THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE CITY OF MOSIER'S REQUEST FOR A POST ACKNOWELDGEMENT PLAN AMENDMENT FOR LEGISLATIVE AMENDMENTS TO MAKE GENERAL UPDATES TO THE CITY'S LAND USE AND DEVELOPMENT ORDINANCE AS IT APPLIES TO THE URBAN GROWTH AREA.	)	ORDINANCE No. 09-010

NOW ON THIS DAY: The above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Court being present; and

WHEREAS, Wasco County and the City of Mosier entered into a revised Urban Growth Management Agreement on April 18, 2007 for the implementation of land use authority with the City of Mosier's Urban Growth Area; and Section III of that agreement requires that the Wasco County Court must adopt any amendments to the City's Land Use and Development Ordinances before they are applicable within the City of Mosier's Urban Growth Area

WHEREAS, In accordance with ORS 197.610, the City of Mosier provided notice to the Department of Land Conservation and Development (DLCD) more than 45 days prior to the first hearing on the proposed amendments to the City's Land Use and Development Ordinances; and

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WHEREAS, In accordance with ORS 227.186, the City provided notice of the proposed amendments to the City's Land Use and Development Ordinances to all property owners because some of the proposed amendments could have the effect of limiting the uses previously allowed on certain properties; and

WHEREAS, The City held a duly noticed public hearing on the proposed amendments to the City's Land Use and Development Ordinances on April 1, which was continued to April 8, May 6, May 15 and May 27, 2009 for the receipt of public testimony and Council deliberation; and

WHEREAS, At the City of Mosier's final hearing, the City Council voted to adopt the proposed amendments to the City's Land Use and Development Ordinances; and

WHEREAS, That on September 2nd, 2009 at the hour of 10:30 AM in the Wasco County Courtroom, Room 202, of the Wasco County Courthouse the Wasco County Court met to conduct a legally notified public hearing on the above matter. The County Court reviewed the record, heard the presentation by the City of Mosier's Planner, Dotty DeVaney, deliberated and, on a vote of 2 – 0 approved the amendments to the City of Mosier's Land Use and Development Ordinance as it applies to the City's Urban Growth Area, as laid out in **Attachment A**, to be signed at the next scheduled County Court meeting, September 16, 2009; and

NOW THEREFORE IT IS HEREBY ORDERED: That the request by the City of Mosier for a Post-Acknowledgement Plan Amendment for legislative amendments to the City of Mosier's Land Use and Development Ordinance as it applies to the City's Urban Growth Area is approved.

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1 SIGNED this 16th day of September, 2009.

WASCO COUNTY COURT

Dan Ericksen, Judge

Sherry Holliday, Commissioner

Absent

Bill Lennox, Commissioner

APPROVED AS TO FORM:

Eric J. Nisley
Wasco County District Attorney

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TITLE 15
ZONING ORDINANCE

CHAPTERS:

15.01	**INTRODUCTORY PROVISIONS**
15.02	**BASIC PROVISIONS AND LAND USE ZONES**
15.03	**SUPPLEMENTAL PROVISIONS**
15.04	**PERMITS: NONCONFORMING USES, VARIANCES, SIMILAR USES, FORMAL CODE INTERPRETATIONS, MODIFICATION OF A PRIOR APPROVAL.**
15.05	**CONDITIONAL USE PERMITS**
15.06	**SITE PLAN REVIEW**
15.07	**ADMINISTRATION AND PROCEDURES**
15.08	**ANNEXATION**
15.09	**LANDSCAPING STANDARDS**
15.10	**ZONE CHANGES and COMPREHENSIVE PLAN AMENDMENTS**
15.11	**WIRELESS COMMUNICATIONS FACILITIES: STANDARDS AND PROCESS**
15.12	**RESERVED FOR PUD / COTTAGE DEVELOPMENT OR OTHER RESIDENTIAL OR MIXED USE INFILL PROVISIONS INCLUDING CREATION OF SPECIAL STANDARDS IMPLEMENTED BY: OVERLAY, SPECIAL/CONDITIONAL USE PERMIT, OR ZONING DESIGNATION.**

CHAPTER 15.01
INTRODUCTORY PROVISIONS

Section:

15.01.010	**Title**
15.01.020	**Purpose**
15.01.030	**Compliance with Title Provisions**
15.01.040	**Interpretation**
15.01.050	**Relationship to Other Regulations**
15.01.060	**Definitions**

15.01.010 – Title. This ordinance shall be known as the City of Mosier Zoning Ordinance or the "MZO." This is Title 15 of the Mosier Municipal Code (MMC).

15.01.020 – Purposes

A. This ordinance is intended to implement the applicable State-wide Planning Goals, administrative rules, ORS chapters 197 and 227, and the goals and policies set forth in the City's Comprehensive Plan. The land use regulations and procedures set forth in this ordinance, in conjunction with the City's other land use regulations, are

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designed to provide a comprehensive and coordinated system for regulating the use of land and for providing necessary urban services and facilities.

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

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

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

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

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

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

15.01.040 – Interpretation. The City Planner, as designated by the City Council, shall have the initial authority and responsibility to interpret and enforce all terms, provisions, and requirements of the MZO. If requested, the City Planner may make a formal interpretation in writing, in accordance with the Type II decision making procedures provided for in Chapter 15.07 *Administration and Procedures*. In all cases where there is a dispute as to the meaning of an ambiguous term, expression or requirement of this ordinance, the City Council's reasonable interpretation shall control.

15.01.050 – Relationship to Other Regulations. Where the provisions of this ordinance conflict with some other City ordinance or regulation, the more restrictive or more specific regulation shall govern. Where a use is allowed in one zone and not mentioned in another zone, it is assumed that the use is prohibited in the other zone. Any use not

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specifically listed as being allowed in a zone is assumed to be not allowed unless specifically authorized through a similar use determination is obtained under the provisions of Chapter 15.04 *Permits: Nonconforming Uses, Variances, Similar Uses, Formal Code Interpretations, Modification of a Prior Approval.*

15.01.060 – Definitions.

A. Except as defined in this section, terms used in this ordinance shall have their ordinary meanings. Where terms are ambiguous or subject to several possible meanings, the context of this ordinance, the Land Division Ordinance and Comprehensive Plan shall dictate the most appropriate meaning.

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

1. "Access" means the legal right of ingress or egress by which pedestrians and vehicles enter and leave property. Demonstration of an access right requires documentation in the form of a recorded instrument or legal conveyance of access from the property owner.

2. "Accessory use" or "accessory structure" means a use or structure incidental and subordinate to the primary use of a property and which is located on the same lot as the primary use or is on a contiguous lot under the same ownership.

3. "Accessory dwelling unit" means one dwelling unit not exceeding 640 sf in floor area, that includes a kitchen, not more than one bedroom and one bathroom, on a lot with an existing single family dwelling or within a larger building put to some commercial use.

4. "Alley" means a street which affords only a secondary means of access to the property

5. "Applicant" means any person or party who submits an application for a quasi-judicial permit or determination under this ordinance or the City's Land Division Ordinance.

6. "Application" means any request for a quasi-judicial decision under this ordinance or the City's Land Division Ordinance.

7. "Approval Criteria" and "Approval standards" mean the substantive requirements set forth in this ordinance, the Comprehensive Plan, the Land Division Ordinance and any applicable provision of State law that must be met in order for a permit to be approved.

8. "Automobile wrecking yard" means the commercial storage or sale of used automobile or truck parts or for the storage, dismantling or abandonment of junk,

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obsolete automobiles, trailers, trucks, machinery or parts thereof, unless said activity takes place outside of an enclosed structure.

9. "Bed and Breakfast" means an establishment in a residential zone that contains up to 5 guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to 15 days. Bed and Breakfasts require a conditional use permit as allowed by Chapter 15.05, and compliance with the applicable standards in Section 15.03.080

10. "Building" means a structure or manufactured home built for the support, shelter, or enclosure of people, animals or property of any kind.

11. "Building official" means the State of Oregon Building Official, or that person's duly authorized representative, who is responsible for the administration and enforcement of the State structural specialty codes, including the building code, in Mosier.

12. "Carport" means a stationary, roofed structure or a portion of a building open on two or more sides primarily used for the parking of motor vehicles.

13. "Church" means a building used primarily for religious worship.

14. "Change of use" means any use that substantially differs – either qualitatively or quantitatively – from the current use of a structure or property. Factors to consider when identifying a change of use include the effects on parking, drainage, circulation, landscaping, building arrangements, and nuisance factors including, but not limited to, traffic, lighting and noise, the number or type of items sold or services provided.

15. "Child care center" means a facility that provides care and supervision of minor children for periods of less than 24 hours and which complies with all applicable State licensing requirements.

16. "City" means the City of Mosier.

17. "City Council" means the Mosier City Council.

18. "City Planner" means the person designated by the City Council to interpret, apply and enforce provisions of this ordinance and the City's Subdivision Ordinance, including the review of permit applications and the issuance of permits.

19. "Commercial use" means any activity involving buying and selling of goods and services.

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20. "Condominium unit" means one of a group of housing units where each homeowner owns their individual unit space, and all dwellings typically share ownership of areas of common use. Individual units normally share walls, but that isn't a requirement. The main difference in condos and regular single homes is that there is no individual ownership of a plot of land. All the land in the condominium project is owned in common by all the homeowners and managed by a homeowners' or tenants' association. The maintenance responsibility for common land and amenities managed by an association is established in the declaration or bylaws and supported by dues paid by owners of individual units. Each owner pays taxes on their individual ownership and is free to sell it at will. The exterior walls and roof of units are typically insured by the condominium association, while all interior walls and items are typically insured by the individual owner. "Condominium" ownership is created and governed in Oregon by statute (ORS 100.005 to 100.910 and 100.990), known as the "Oregon Condominium Act."

21. "Drive through facilities" are commercial facilities designed to serve customers who remain in their vehicles, such as those associated with fast food restaurants, banks and coffee stands.

22. "Driveway apron" means a paved or concrete connection from the public street to the property line and/or driveway of a dwelling unit.

23. "Duplex" means a building containing 2 dwelling units, in a single ownership, where each unit is designed for occupancy by a single household.

24. "Dwelling, single family" means any building designed or used exclusively for occupancy by one household and containing one dwelling unit. The term includes manufactured homes meeting the requirements of Section 15.03.070 Manufactured Home Siting Standards.

25. "Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one household or a group residence. A manufactured home that complies with the requirements of this ordinance is a dwelling unit, but a recreational vehicle is not, nor can it be used as, a dwelling unit.

26. "Emergency" means a sudden unforeseen event requiring immediate action and usually involving danger or threat to life, public health, or property.

27. "Family day care" means a facility that provides care for not more than 12 children in a home and which complies with all applicable State licensing requirements.

28. "Final Action" and "Final Decision" mean the City's final decision on a permit application for which there is either no appeal to another decision maker within

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the City, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with Chapter 15.07 *Administration and Procedures*. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision. All applicable appeal periods begin to run on the date a decision becomes final.

29. "Formula take-out food restaurant" means a restaurant or establishment that (1) is required by contractual or other arrangement to offer standardized menus, ingredients, food preparation, interior or exterior design and/or uniforms and (2) serves or delivers its food in disposable containers.

30. "Fourplex" means a building containing 4 dwelling units, in a single ownership, where each unit is designed for occupancy by a single household.

31. "Frontage street or road" means a minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

32. "Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building.

33. "Group residence" or "group home" means a residence for a group of more than 5 persons who are not related by blood, marriage, legal adoption or legal guardianship, living together in the same residential structure where there is a communal kitchen and dining facility.

34. "Height of building" means the vertical distance above the base point measured to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the mid-point (half way between the eve and the peak) of a pitched or hipped roof. The base point shall be the height of the original (pre-development) grade of the property measured 5 feet out from the midpoint along the foundation wall. When measuring building height on a sloping lot, the base point shall be the average grade measured 5 feet out from the midpoint of all four walls.

35. "Home occupation" means a lawful commercial occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, or lawfully constructed accessory building and which is secondary to the primary residential use of the dwelling. Home occupations require a conditional use permit as allowed by Chapter 15.05, and compliance with the applicable standards in Section 15.03.120 *Home Occupations*.

36. "Household" means one or more people related by blood, marriage, adoption or legal guardianship, plus up to 3 additional unrelated people, all of whom live in one dwelling unit.

37. "Industrial" means the making of commodities by manufacturing, assembling, fabrication, or compounding by manual labor or machinery. The term includes physical processes or combinations thereof.

38. "Legislative" means any action or proceeding to amend any city ordinance, including this one or the Land Division Ordinance, the city's comprehensive plan or related maps, and does not pertain to a particular property or small set of properties.

39. "Light industrial" means an industrial use which occurs totally within an enclosed structure and where there is no odor, vibration, dust, or noise discernible outside the structure.

40. "Lot" means a parcel or tract of land that was legally created, according to the procedural and dimensional requirements that existed at the time of creation, and the parcel or tract has remained lawful since creation.

41. "Lot depth" means the average distance between the front lot line and the rear lot line.

42. "Lot line, front," means the property line closest to the street from which the access to the lot is commonly made.

43. "Lot line, rear," means the property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other odd-shaped lot or parcel, the rear lot line is a line 10 feet in length within the lot or parcel parallel to and at a maximum distance from the front lot line. In the above instance, and if the front line is curved and a determination of the parallel relationship to the front lot line is being made, a straight line connecting the two end points of the front lot line shall be used. In the case of a corner lot or parcel, either interior lot line may be the rear lot line, regardless of the placement of the front door.

44. "Lot line, side," means the property lines which are approximately perpendicular to and between the front and rear lot lines.

45. "Lot width" means the average horizontal distance between the side lot lines.

46. "Lot of record" means a parcel or lot that meets the requirements of "lot" as defined above, except that one or more dimensional requirements have changed since the time of creation so as to render the lot nonconforming.

47. "LUBA" means the Oregon Land Use Board of Appeals.

48. "Manufactured home" means a transportable single family dwelling conforming to the Manufactured Housing Construction and Safety Standards Code of the U.S. Department of Housing and Urban Development, but is not regulated by the

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

49. "Manufactured home park" means any place where 4 or more manufactured dwellings (as defined in ORS 446.003(26)) are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the City of Mosier under an ordinance adopted pursuant to ORS 92.010 to 92.190.

50. "Material deviation" means any of the following changes to a previously approved permit:

    a. For subdivisions or approved binding site plan, an increase in the total number of dwelling units or lots by 10% or more, an increase in the number of multiple family dwellings by more than 10%, or a reduction in the amount of landscaping, open space or land reserved for protected feature of 10% or more.

    b. For conditional use permits, site plan reviews, or other approval involving a request to change the amount of commercial or industrial area by more than 10%.

    c. For any permit approval, a reduction in the amount of landscaping, open space or land reserved for some protected feature of 10% or more or the relocation of buildings, streets, access points onto the existing public right of way, utility easements, pedestrian/bicycle accessways, parking lots, landscaping, or other site improvements away from the previously approved general location.

    d. Any change to a non-quantified condition or requirement or one which renders the prior approved permit incompatible with surrounding lands or development or noncompliant with any of condition of approval or approval criterion.

51. "Motel" is the same as a "hotel" and "boarding house" and means any building that rents rooms for temporary residence by the day, night, week or month, excluding bed and breakfast establishments as defined above.

52. "Multifamily residential" means any type of residential structure with more than one dwelling unit in the same building or attached by a shared wall or walls.

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Multifamily housing includes: 2-4 dwelling units: duplex, triplex, and fourplex as well as structures accommodating 5 or more units: apartment building. Multifamily housing may be tenant-occupied, owner-occupied (as in a condominium or cooperative project), or mixed (as many duplexes with the owner occupying one side).

53. "Nonconforming use," structure or lot means a use, structure or lot that was lawfully established, existing and active at the time this ordinance or any amendment thereto became effective, has been actively maintained to the same extent without any gaps or lapses greater than one year (12 continuous months) since the time restrictive zoning was first imposed, and which does not conform to one or more of the current requirements of this ordinance. A nonconforming use has a qualitative component, *i.e.,* the nature or type of use, and a quantitative component, *i.e.,* what is the measurable extent of the use. A nonconforming use can decrease in extent over time, but it cannot lawfully increase in extent over time.

54. "Occupation" means any endeavor for profit.

55. "Outdoor storage" means the keeping of personal or business property or motor vehicles outside of a building for more than 72 consecutive hours.

56. "Owner" means a person owning a legally recognized interest in real property.

57. "Parcel" means a tract of land that is created by partitioning of land.

58. "Parking space" means a rectangle not less than 18 feet long and 9 feet wide for use by a vehicle.

59. "Permit" means a quasi-judicial discretionary approval of the development of land that applies or interprets any provision of this ordinance, the Mosier Comprehensive Plan or the Land Division Ordinance, including, conditional use permits, subdivisions, partitions, planned unit developments, formal code interpretations, variances, similar use determinations, nonconforming use verifications, and any modification thereto.

60. "Person" means a natural person, firm, partnership, estate, receiver, syndicate, branch of government or any group or combination acting as a unit.

61. "Private driveway" means any form of access to a lot that is not dedicated to, and available for use by, the general public.

62. "Professional office" means a use involving professional services such as medical care, consulting, legal services, and other similar services.

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63. "Projections" that are allowed to extent into required setbacks and above the maximum building height include architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues antennas and the like as determined by the city planner.

64. "Public facility or use" means a facility or use owned or used by a governmental entity and used for public service, police, fire protection, sewage collection and treatment, storm drainage systems, water distribution and treatment, public health services, public recreational programs and facilities, and library services. Surface mines owned or operated by a governmental entity or any use accessory thereto are not public facilities or uses.

65. "Public right of way" means a strip of land dedicated to the general public and open for ingress, egress and the placement of utilities.

66. "Quasi-judicial" means a proceeding initiated by an application in which existing standards or criteria are applied to a specific set of facts in order to determine whether the applicable criteria are met. The result of a quasi-judicial decision affects only one or a small number of identifiable properties or people and is not generally applicable.

67. "Recreational vehicle" means a trailer, camper, motor home or similar vehicle, with or without its own engine, which is designed for temporary occupancy and has a gross floor space of less than 400 sf. A recreational vehicle cannot be used as a dwelling unit or a manufactured home, as defined in this Chapter.

68. "Recreational vehicle park" means any area designed to provide temporary parking for, and use of, recreational vehicles and which meets all applicable state licensing and permitting requirements. The maximum stay shall be limited to 120 consecutive days.

69. "Residential care facility" means a residential care, residential training, or residential treatment facility licensed or registered by the State (Mental Health and Development Services Division) as defined in ORS 443.400, which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for 6 to 15 individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the residential facility. A residential facility does not include a residential school; state or local correctional facility; juvenile training school; youth care center operated by a county juvenile department; juvenile detention facility; nursing home; family care facility; or children's or adult day care as defined by State law.

70. "Residential home" means a residential treatment or training or adult foster home licensed by or under the authority of the State (Mental Health and Development

Services Division), which provides residential care alone or in conjunction with treatment or training, or a combination thereof, of 5 or fewer individuals who need not be related. Staff required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any residents of the residential home.

71. "Residential use" means the use of a structure for occupancy as a human dwelling or lodging place, such as a single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.

72. "Setback" means an area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained. Setbacks are measured from the rear, side and front property lines to the nearest part of a structure.

73. "Sign" means an outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, or other thing that is used, designed or intended to communicate to persons or the public. The term includes the sign supporting structure, display surface and all other component parts of the sign. When dimensions of the sign are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but the term shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.

74. "Street" means the entire width of a public right-of-way.

75. "Structure" means a man made building constructed or built having a fixed base on or fixed connection to the ground or other structure. Surface coverings such as pavement and concrete are not structures.

76. "Subject property" means one or more parcels of real property that are the subject of a quasi-judicial permit application.

77. "Temporary event" means a one-time event or limited frequency event or use that will not last for more than one week or consist of more than five (5) event days per calendar year and then will end. Temporary events do not involve construction or alteration of any permanent building or structure nor connection with any public facilities, but all impacts of the use, such as traffic pedestrian circulation, trash collection and the like, must be avoided, minimized or mitigated for. Temporary events are only allowed in the Commercial, Industrial and Public Lands zone. Any signs associated with a temporary event are subject to the sign code regulations in Chapter 8.20 of MMC. Approval of a temporary event permit is not a land use permit and is not subject the land use decision-making procedures detailed in Chapter 15.07 Administration and Procedures.

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"Temporary use" means a use established for a limited duration, not to exceed one year, that is, or will be, discontinued after one year. Temporary use does not involve construction or alteration of any permanent building or structure, although the authorization of the temporary use does not necessarily preclude such construction.

78. "Townhouse" means two or more single family dwellings that are attached (common wall) with no lot or space separating them and where the legal property line separating the lots runs through the building dividing the ownership of the land into separate lots. Individual townhouse units can be separately owned and sold.

79. "Tract" means a separately described parcel of land that cannot be used for the construction of a dwelling or any other structure, but instead is used for open space, stormwater detention or some other similar purpose.

80. "Triplex" means a building containing 3 dwelling units, owned by a single owner, where each unit is designed for occupancy by a single household.

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CHAPTER 15.02
BASIC PROVISIONS AND LAND USE ZONES

Section:

15.02.010	**Compliance with Ordinance Provisions Required**
15.02.020	**Establishment Land Use Zones**
15.02.030	**Official Zoning Map Adopted**
15.02.040	**Zoning Boundaries**
15.02.050	**Residential Zone (R-5)**
15.02.060	**Residential Zone (R-10)**
15.02.070	**Commercial Zone (C)**
15.02.080	**Industrial Zone (I)**
15.02.090	**Open Space (OS)**
15.02.100	**Public Lands and Facilities (P)**

15.02.010 - Compliance with Ordinance Provisions Required. Property may be used, and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used, only as allowed by this ordinance. If a zone does not list a particular proposed use, the use is not allowed unless it is authorized through a similar use determination as provided in Chapter 15.04 *Permits: Nonconforming Uses, Variances, Similar Uses, Formal Code Interpretations, Modification of a Prior Approval.*

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

TABLE 15.02-A
Definitions of Land Use Zones

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

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

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

15.02.050 - Residential Zone (R-5)

A. Permitted Uses
1. Single family dwellings and accessory structures
2. Group Residential

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

C. Minimum Lot Size and Maximum Lot Coverage. Maximum lot coverage is subject to Chapter 15.03 *Supplemental Provisions*. The following minimum lot sizes shall control:

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

Conditional approval of either residential townhouse or condominium units shall be limited to the maximum density allowed for multifamily units in the base zone and shall be subject to site plan review.

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

1. *Front Yard Setback:* A minimum front yard setback of 10 feet is required, except that an unenclosed porch may be within 8 feet of the front property line, as long

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as it does not encroach into a public utility easement. Garages and carports shall be recessed behind the front building line at least 4 feet. Garage and carport entrances may be built flush with the front building line only when the building is set back at least 20 feet from the street accessed by the driveway so that a vehicle can be parked in front of the garage and not encroach into the setbacks or sidewalk area. Where garages do not face the frontage street, the garage need not be flush with the house but may protrude toward the frontage street so long as a minimum front yard setback of 10 feet is maintained.

2. *Rear Yard Setback:* A minimum rear yard setback of 5 feet is required.

3. *Side Yard Setback:* The minimum side yard setback shall be 5 feet, except for corner lots where the side yard setback facing the street shall be 10 feet.

4. *Setback Exceptions:* Projections may encroach no more than 3 inches for each foot of required yard width. Condominium and townhouse developments may be allowed to modify side yard setbacks to allow shared wall construction if compliance with all other standards including maximum density, conditional use permit criteria and site plan review standards is achieved.

E. Maximum Building Height. Buildings, structures, or portions thereof, located 10 feet or more from the property line, shall not exceed 35 feet in height. Buildings, structures, or portions thereof, located less than 10 feet from the property line, shall not exceed 28 feet in height.

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

G. Signs. All signs are subject to the Sign Code regulations in Chapter 8.20 of MMC.

H. Lighting. All exterior lighting is subject to the lighting regulations in Chapter 8.30 of MMC.

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

15.02.060 - Residential Zone (R-10)

A. Uses Permitted Outright
1. Single family dwellings and accessory structures
2. Group Residential

B. Conditional Uses

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

C. Minimum Lot Size and Maximum Lot Coverage. Maximum lot coverage subject to Chapter 15.03 *Supplemental Provisions*. The following minimum lot sizes shall control:

Single family dwelling	10,000 square feet
Duplex	15,000 square feet
Triplex	20,000 square feet

Conditional approval of either residential townhouse or condominium units shall be limited to the maximum density allowed for multifamily units in the base zone and shall be subject to site plan review.

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

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

2. *Rear Yard Setback:* A minimum rear yard setback of 10 feet is required.

3. *Side Yard Setbacks:* The minimum side yard setback shall be 5 feet, except for corner lots where the side yard setback facing the street shall be 10 feet.

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4. *Setback Exceptions:* Projections may not encroach more than 3 inches for each foot of required yard width. . Condominium and townhouse developments may be allowed to modify side yard setbacks, to allow shared wall construction, if compliance with all other standard including: maximum density, conditional use permit criteria and site plan review standards is achieved.

E. Maximum Building Height. Buildings, structures, or portions thereof, located 10 feet or more from the property line, shall not exceed 35 feet in height. Buildings, structures, or portions thereof, located less than 10 feet from the property line, shall not exceed 28 feet in height.

F. Parking Regulations.

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

G. Signs. All signs are subject to the Sign Code regulations in Chapter 8.20 of MMC.

H. Lighting. All exterior lighting is subject to the lighting regulations in Chapter 8.30 of MMC.

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

15.02.070 – Commercial Zone (C)

A. Uses Permitted Outright: None

B. Conditional Uses

1. Business, governmental, or professional offices
2. Change of use
3. Financial institutions, such as a bank
4. Group Residential
5. Parking lots of 4 or more spaces, new or expanded, and/or the equivalent of paving equal to 4 or more parking spaces; shared parking lots may include up to the maximum combined number of spaces specified in Section 15.03.130 *General Requirements for Parking Lots* of this ordinance.
6. Personal and business service such as barber shop, tailoring shop, printing shop, laundry or dry cleaning establishment, and electrical repair shops
7. Residential Facility
8. Retail business in which the operation takes place solely within an enclosed building
9. Agricultural support services including produce storage facilities
10. Churches

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11. Commercial amusement
12. Family oriented craft industries
13. Hospitals, sanitariums, rest homes, nursing or convalescent homes
14. Light industrial uses
15. Lodge for civic or fraternal organization
16. Planned unit developments
17. Public facilities and uses
18. Public parks, playgrounds and related facilities
19. Commercial uses such as motels, gasoline service station or restaurant
20. Residential use in a building where there is an established commercial use and residential use is accessory to and compatible with the commercial use.
21. Schools and day care facilities
22. Rooming and boarding houses
23. Public facilities
24. Drive through facilities where the building is smaller than 200 sq. ft.

C. Prohibited Uses

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

D. Site Development Requirements

1. *Minimum Lot Size:* None

2. *Minimum Street Frontage:* 25 feet on a dedicated public street.

3. *Maximum Lot Coverage:* Maximum lot coverage subject to Chapter 15.03 *Supplemental Provisions*.

4. *Minimum Yard Setbacks:*
   a. *Front* - none required
   b. *Side and rear* - Not required except in the case where the structure is adjacent to a residential zone, in which case a 10 foot setback is required for all structures.

5. *Maximum Yard Setbacks:*
   a. *Front* – 10 feet. This standard may be increased when a sidewalk, bicycle path, multi-use path and/or planting strip is provided between the building and front property line.
   b. *Side and rear* - Not required.

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6. *Maximum Building Height:*
   a. For buildings south of Hwy 30, 28 feet
   b. For buildings north of Hwy 30, 1 story or 18 feet as measured from top of the pavement of Hwy 30.

7. *Parking Regulations:* Parking is required and shall comply with the applicable parking regulations in Section 15.03.130 *General Requirements for Parking Lots* of this ordinance.

E. Signs. All signs shall comply with the sign regulations in Chapter 8.20 of MMC.

F. Lighting. All exterior lighting is subject to the lighting regulations in Chapter 8.30 of MMC.

G. Landscaping. Landscaping is required and shall comply with the landscaping standards of Chapter 15.09.

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

15.02.080 - Industrial Zone (I)

A. Uses Permitted Outright: None.

B. Conditional Uses: Light industrial uses which take place inside an enclosed building and accessory uses including transportation, loading, unloading and temporary staging.

C. Prohibited Uses: Aggregate resource extraction and processing and accessory uses, including crushing, hauling and batching.

D. Site Development Requirements
1. *Minimum Lot Size:* None
2. *Minimum Street Frontage:* None
3. *Minimum Yard Setbacks:* None
4. *Maximum Building Height:* 35 feet
5. *Parking Regulations:* Parking is required and shall comply with the applicable parking regulations in Section 15.03.130 *General Requirements for Parking Lots* of this ordinance.

E. Signs: All signs shall be in conformance with the sign regulations in Chapter 8.20 of MMC.

F. Lighting: All exterior lighting is subject to the lighting regulations in Chapter 8.30 of MMC.

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G. Landscaping: All landscaping shall be in conformance with the landscape standards of Chapter 15.09.

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

15.02.090 - Open Space (OS)

A. Uses Permitted Outright: None

B. Conditional Uses - Public or Non-Profit Only:
1. Parks
2. Recreation areas
3. Community center, including housing for senior citizens
4. Public utilities, public facilities and public uses

15.02.100 –Public Lands and Facilities (P)

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

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

The following uses operated by the public or semi public agency that owns the development site, or operated by an entity other than the public agency upon a finding that the property is not currently needed for a public purpose (per the process described in subsection 15.02.100-H.3. *Determination of need* of this ordinance) may be permitted conditionally subject to special conditional use criteria applicable in the Public Lands zone or subject to conditional use criteria listed in MZO Chapter 15.05 and the special conditional use criteria applicable in the Public Lands zone.

B. Uses permitted conditionally subject to special conditional use criteria applicable in the Public Lands zone (*see subsection 15.02.100-H, below*):
1. Parks, Athletic Fields and Playgrounds
2. Trails and Recreation areas
3. Public and Community Gardens, excepting livestock of any kind

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C. Conditional uses subject to special conditional use criteria applicable in the Public Lands zone (*see subsection 15.02.100-H, below*) and conditional use criteria listed in Chapter 15.05 of this ordinance:

1. Public utilities, public facilities and public uses
2. Community center, including public housing and housing for senior citizens
3. Family day care
4. Schools and child care centers
5. Civic or fraternal organization
6. Schools, Academies, or Studios (including: Ballet, Yoga, Martial Arts, Gymnastics, and Art)
7. Administrative, General and Professional Offices
8. Churches
9. Horticultural Uses, including plant nurseries
10. Information Technology Services
11. Scientific and Educational Research Centers

D. Prohibited Uses

1. Heavy Industrial uses
2. Aggregate resource extraction and processing and accessory uses, including hauling and asphaltic or concrete batching.

E. Site Development Requirements

1. *Minimum Lot Size:* None

2. *Minimum Street Frontage:* 25 feet on a dedicated public street.

3. *Minimum Yard Setbacks:*
   a. Front - Not required except in the case where the structure is adjacent to a residential zone, in which case a 10-foot setback is required for all structures.
   b. Side and rear - Not required except in the case where the structure is adjacent to a residential zone, in which case a 10 foot setback is required for all structures.

4. *Maximum Building Height:* 35 feet.

5. *Parking Regulations:* Parking is required and shall comply with the applicable parking regulations in Section 15.03.130 *General Requirements for Parking Lots.*

F. Signs: All signs shall comply with the sign regulations in Chapter 8.20 of MMC.

G. Lighting: All exterior lighting shall comply with the lighting regulations in Chapter 8.30 of MMC.

H. Landscaping: Landscaping is required and shall comply with the landscaping standards of Chapter 15.09

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

J. Special Conditional Use Criteria Applicable in the Public Lands zone:

1. *Ownership.* The subject site must be land owned solely by a public or quasi-public agency, or non-profit organization established primarily to provide public and quasi-public uses allowed outright or conditionally in this section. Prior to sale to private owner(s), an applicant must apply for and obtain a new zoning designation for the public land.

2. *Proximity to Residential Land.* When a proposed public use, access to a public use, or other use accessory to a public use is to be located within 500 feet of land in any residential zone compatibility with the surrounding zone shall be considered prior to approving the use. The City maintains authority to impose conditions necessary to ensure compatibility with uses permitted in surrounding residential zones and to deny uses that pose adverse impacts that cannot be mitigated to an acceptable level by conditions.

3. *Determination of Need.* The process used by the public agency that owns the property to determine whether a particular use shall be permitted on public property that is found to not be currently needed shall assure that neighborhood residents and property owners in the area have the opportunity to review and comment on the new proposed use.

4. *Playgrounds and Recreational Improvements.* School playgrounds or other physical improvements providing opportunities for public recreation shall be retained for use as public parks and recreation sites whenever possible.

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CHAPTER 15.03
SUPPLEMENTAL PROVISIONS

Section:

15.03.010	**Maintenance of Minimum Dimensional Requirements**
15.03.020	**Access and Frontage Requirements**
15.03.030	**Maximum Lot Coverage**
15.03.040	**General Provisions Regarding Accessory Uses**
15.03.050	**Fences and Hedges**
15.03.060	**Historic Structure Preservation**
15.03.070	**Manufactured Home Siting Standards**
15.03.080	**Bed and Breakfast Facilities Development Standards**
15.03.090	**Earth Movement, Grading and Removal**
15.03.100	**Archeological Resources**
15.03.110	**Vision Clearance Areas**
15.03.120	**Home Occupations**
15.03.130	**General Requirements for Parking Lots**
15.03.140	**General Exceptions to Yard Requirements**
15.03.150	**General Exceptions to Building Height Limitations and Setbacks**
15.03.160	**Animals and livestock in the city's Residential Zones**
15.03.170	**Access for non-residential uses on adjacent parcels**
15.03.180	**Architectural Design Standards For Commercial Uses**
15.03.190	**Temporary Use Permits in Any Zone**
15.03.200	**Bluff Impact and Riparian Protection Areas**

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

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

15.03.030 – Maximum Lot Coverage.

A. Lot Coverage: The percentage determined by dividing (a) the area of a lot covered by the total (in square feet) of: (1) the footprint of the main building; and (2) the footprints of accessory buildings (counting only buildings with footprints larger than 150 square feet, or with two stories or more); and (3) parking pads, driveways, and other impervious surfaces such as sport courts etc.; by (b) the gross area of the that lot.

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B. Maximum Allowable Coverage: Maximum lot coverage applies to any new development or expansion of existing development in the "R-5", "R-10", and "C" zones. New development and expansions to existing development must comply with maximum lot coverage standards in Table 15.03-A, except as provided below:

1. When a detached garage is provided in the rear yard, of a residential dwelling the maximum lot coverage may be increased as shown in the table below.
2. When a porch is attached to the front elevation of the residential dwelling and has an area of at least 60 square feet on the front of the building (exclusive of any wrap-around or side porch), the maximum coverage may be increased as shown in the table below.
3. When a storm water management plan, prepared by a qualified professional, is provided documenting that all storm water resulting from new development or expansion of existing development can be sufficiently accommodated on site, the lot coverage can be exceeded within the limits of setback requirements.

TABLE 15.03-A
Maximum Allowable Residential and Commercial Zone Lot Coverage

ZONE:	R-5	R-10	C-1
Max Lot Coverage	40%	45%	65%
Max Lot Coverage w/ front porch	43%	48%	-na-
Max Lot Coverage w/ rear garage	45%	50%	-na-
Max Lot Coverage w/front porch AND rear garage	48%	53%	-na-

4. Existing main and accessory structures that are not in conformance with these coverage requirements on September 1, 2006, are permitted to be rebuilt within the building footprint as it existed on September 1, 2006, if the structures are damaged or partially destroyed by fire, wind, earthquake or other force majeure and if construction commences within two (2) years from the date of the calamity.
5. Multi-family dwellings, subject to Site Plan Review, are exempt from the lot coverage requirements and are required to demonstrate adequate capacity to accommodate storm water, on site circulation etc. through the Site Plan Review process.

15.03.040 – General Provisions Regarding Accessory Uses. An accessory use shall be subject to, and comply with, the same requirements that apply to the principal use. Accessory uses must be secondary to the primary use in terms of how the entire property is used, and must augment or facilitate use of the property for the primary use. Accessory

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uses shall be limited to the same lot as the primary use or must be on an adjacent property under the same ownership as the property where the primary use is situated.

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

15.03.060 - Historic Structure Preservation. An Historic Alteration/Demolition Permit is required for a major exterior alteration to, or the demolition of, a designated historic structure or a structure within a designated historic district, as designated by the Comprehensive Plan. The City Council shall process any application for an Historic Alteration/Demolition Permit according to a Type III procedure as provided in Chapter 15.07 *Administration and Procedures*. The City Council shall review and decide the application according to the Historic Preservation factors of this section.

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

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

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

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

1. *Review by Council:* Upon receipt of an application for a major exterior alteration of an historic structure listed in the Comprehensive Plan, the City Council, in public meeting, shall review the proposed alteration to determine if the resource's historical significance will be altered. This review shall be based on the criteria for determining historic significance contained in the Comprehensive Plan.
2. "*Major exterior alterations*" as used in this section means any change or alteration of a facade, texture, design, materials, fixtures, or other treatment.
3. *Information required for review:* All applications for major exterior alteration shall be accompanied by plans and specifications of the proposed alteration. The City Council may request additional sketches and other information deemed necessary to make an informed decision.

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4. *Approval and conditions:* In order to approve the application, the City Council shall find the alteration harmonious and compatible with the resource with respect to style, scale, texture, and construction materials and/or find the alteration will enhance the historical value of the resource. Conditions may be attached to the approval if the City Council deems it necessary to achieve the above objectives. The City Council shall disapprove the request if the proposal would reduce the resource's value or historic significance.

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

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

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

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

B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

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

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

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

F. The Manufactured home shall have a garage or carport built to accommodate at least a single car and constructed of materials similar to the home. A garage may be

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required by the city, in lieu of a carport, where the city determines this to be consistent with the predominant construction of immediately surrounding dwellings.

G. If a manufactured home must be sited lengthwise with the narrow (side) end of the structure oriented toward the front yard the manufactured home can be allowed subject to the setbacks in the residential zone and providing that the end of the structure is built or installed to include an unenclosed covered porch across the full extent of the narrow end facing the front property line. Special setbacks allowing for front porches to encroach into the front yards are applicable. (see figure 15.03 A & 15.03 B) Manufactured home dimensions do not always allow for the home to be situated so that the primary access and front of the structure is oriented toward the front street or front property line. The city wishes to provide for manufactured homes on smaller lots where the manufactured home cannot be oriented to face front due to predetermined unit sizes and configurations and to do so without requiring a variance. Unenclosed covered porches are extremely common and encouraged on the front of all residential structures even though they are built to orient the front of the home toward the street. Special exceptions to front yard setbacks are provided to encourage and accommodate unenclosed covered porches in all residential zones.

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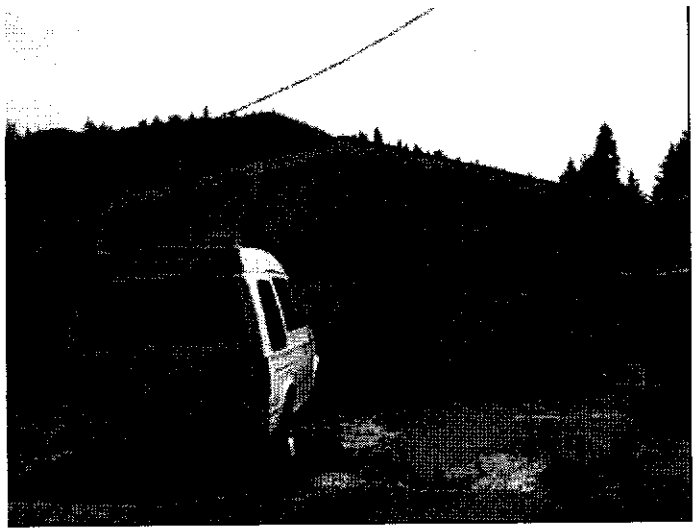
Figure 15.03 A Like This - Mobile home with unenclosed covered porch

Figure 15.03 - B Not Like This – Mobile home with side to the front and no porch



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

A. The structure shall retain the characteristics and appearance of a single family dwelling.

B. The number of guest rooms shall be limited to 5, and the number of guests shall be limited to 10.

C. In addition to the required off-street parking for each residential use, one off-street parking space for each room shall be provided.

D. Signs conform to standards in Chapter 8.20 *Sign Code*, of MMC.

E. All exterior lighting conforms to standards in Chapter 8.30 *Outdoor Lighting* of MMC.

F. The applicant shall submit a site plan that shows how the off-street parking requirements will be met and provides landscaping appropriate to a residential neighborhood.

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

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

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

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

A. The home occupation shall be contained completely inside the house and be accessory to the primary residential use of the structure.

B. The home shall retain the appearance and characteristics of a home and not a business.

C. There shall be no exterior display or sign, except by a non-illuminating sign no larger than 2 sf.

D. There shall be no more than one employee who does not live on site.

E. There shall be no increase in noise outside the dwelling unit.

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

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

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

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

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

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

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

F. Lighting. Any parking area intended for active use during non-daylight hours shall be properly illuminated to avoid accidents and increase safety. Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property, and shall be of a type and method of construction to shield the light source from direct view from any adjacent property or right-of-way. All parking area lighting shall comply with the standards set forth in Chapter 8.30, *Outdoor Lighting* of MMC.

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

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

1. For new developments on the south side of Highway 30, parking lots shall be located on the side or rear of buildings.
2. For new developments on the north side of Highway 30, parking lots shall be located in the rear of buildings with provisions for shared parking among multiple businesses.
3. *Shared parking* will be allowed and encouraged for all commercial uses.
   a. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.

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b. Provision of an equivalent number of parking spaces in a shared parking facility or district may be allowed in lieu of provision of on-site parking required in subsection 15.03.130-H.4, below.

4. *Minimum parking spaces:* The following minimum number of parking spaces shall be provided for the following uses, unless otherwise specified in the base zone:

a. *Business, general retail, personal services.* General - one space for 350 square feet of gross floor area. Furniture and appliances - one space per 750 square feet of gross floor area.

b. *Churches and places of public assembly*, including fraternal organizations. One space per four fixed seats.

c. *Professional Offices.* Medical and Dental Offices or Facilities - one space per 350 square feet of gross floor area; General Offices - one space per 450 square feet of gross floor area.

d. *Hotels and motels.* One space for each guest room, plus one space for the manager.

e. *Restaurants, bars, ice cream parlors and similar uses.* One space per four seats or one space per 100 sq. ft. of gross leasable floor area, whichever is less.

f. *Residential uses.*

- Single family detached housing. 2 parking spaces shall be provided for each detached single-family dwelling or manufactured home on an individual lot.
- Two- and three-family housing. 1.5 spaces per dwelling unit.
- Multi-family and single family attached housing. 1.5 spaces per dwelling unit.
- Rooming and boarding houses, dormitories. Two spaces for each three guest rooms, or one per three beds, whichever is more;

g. *Light Industrial uses.* One space per two employees on the largest shift or for each 850 square feet of gross floor area, whichever is less, plus one space per company vehicle.

h. Public utilities (gas, water, telephone, etc.), not including business offices. One space per two employees on the largest shift, plus one space per company vehicle; a minimum of two spaces is required.

i. Day care centers having 13 or more children. One space per two employees; a minimum of two spaces is required.

j. Schools. One and one-half space per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater.

I. Parking Design Standards. All parking spaces should be designed and built to the standards illustrated in Table 15.03-B and Figure 15.03-C.

TABLE 15.03-B
Parking Stall Dimensions

Angle (A)	Stall Width	Stall Depth	Aisle Width	Curb Length

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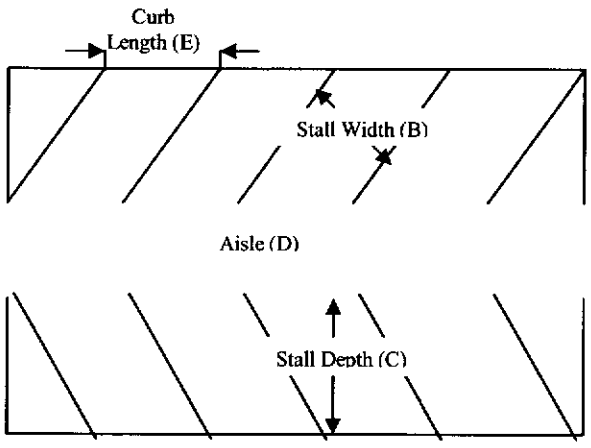
	(B)	(C)	(1-way) (D)*	(E)
0 (parallel)	10' 0"	10' 0"	12'	22'
45	10' 0"	20' 6"	13'	14' 1"
60	10' 0"	21' 6"	18'	11' 10"
70	10' 0"	21' 2"	18'	10' 7"
90	10' 0"	20' 0"	24'	10' 0"

* 24' minimum for two-way traffic

FIGURE 15.03-C
Parking Stall Dimensions



J. Bicycle Parking. Bicycle parking shall be provided in commercial zones. Bicycle parking shall meet the following standards:

1. Bicycle parking for commercial business customers shall be provided along the street at a rate of at least one space per use. Individual uses may provide their own parking, or spaces may be clustered to serve up to six (6) bicycles.
2. Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one building entrance (e.g., no farther away than the closest parking space).
3. Bicycle parking should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, streetlights, planters and other pedestrian amenities.
4. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions.

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

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

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

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

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

A. <u>Design Features</u>: The following design features or elements should be incorporated in the design of new or reconstructed buildings. Examples illustrations and photos are shown in Figure 15.03-D.

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

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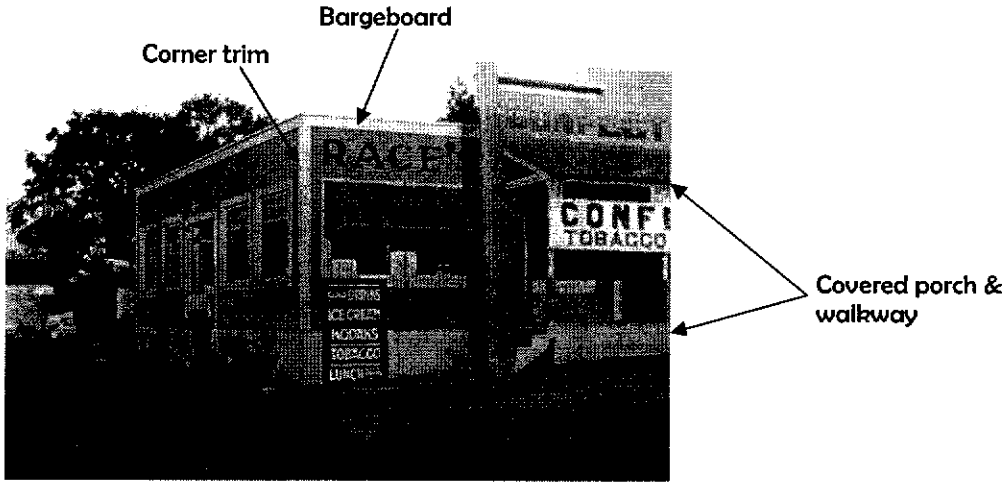
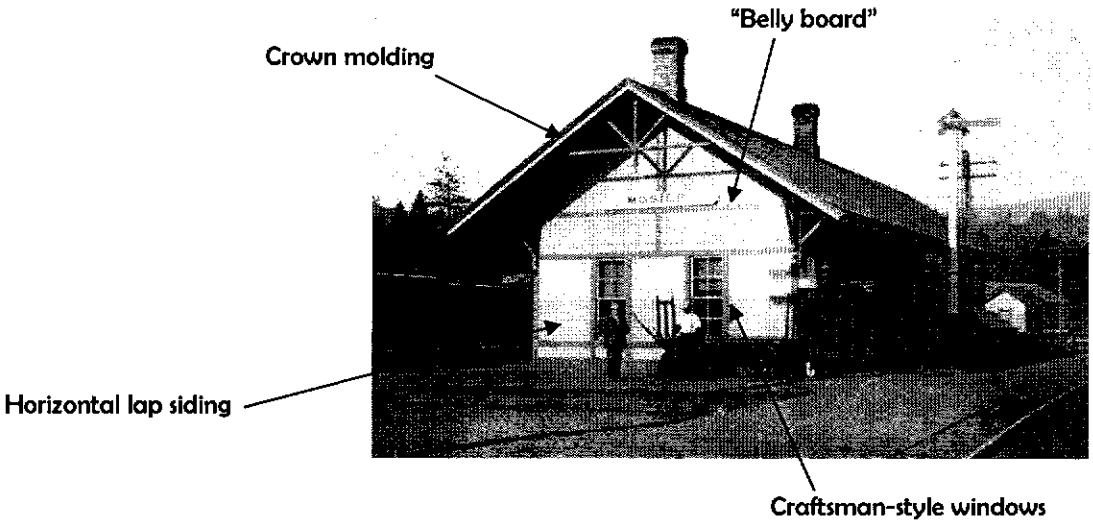
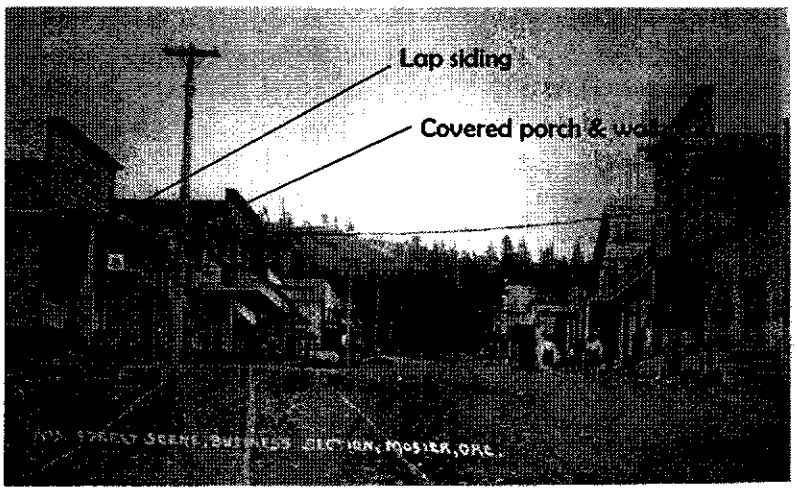
FIGURE 15.03-D
Illustrative Photos of Desirable Design Features







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B. Use of Building Materials.

1. Building materials to be encouraged, discouraged or limited in use in construction of new or reconstructed commercial buildings are specified in Table 15.05-C

TABLE 15.03-C
Guidelines for Use of Building Materials in New or Reconstructed Buildings in Commercial Areas

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

Notes:

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

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

C. Review and Approval. Architectural Design standards shall be administered through the site plan approval process and subject to a Type 2 approval process as described in subsection 15.07.020-B of this ordinance.

15.03.190 – Temporary Use Permits in any zone. Approval of a temporary use is a land use decision and is subject to Type II review per Chapter 15.07 in any land use zone.

A. Standards and Duration of Temporary Use: A temporary use is established for a limited duration, not to exceed one year. It must meet the definition of a Temporary Use provided in this chapter. All impacts of the use, such as traffic pedestrian circulation, trash collection and the like, must be avoided, minimized or mitigated for. Any signs associated with a temporary event are subject to the sign code regulations in Chapter 8.20 of MMC.

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B. Emergency Interim Temporary Use: In the instance of an emergency, an interim temporary use permit may be granted to allow for only those actions necessary to provide immediate response to the emergency. Staff will review the interim temporary use in consultation with the Mayor. Applicant will be made aware that Type II review of the proposed use is still required and further conditions may be applied to the temporary use subject to comment provided through that process.

C. Annual Renewal Possible for Local Produce Stand: A local produce stand or establishment of site exclusively for vending of local produce and locally grown farm products may also be established as a temporary use. City wishes to create incentives for sale of local fresh produce that has not been readily available in town for many years. Vending of locally grown farm products can, in some instances, meet the definition of a TUP but the operation may take place seasonally over a number of years rather than for a single year. For this reason a TUP for vending of local produce may be renewed annually subject to Type I ministerial review to determine that all original conditions and applicable standards continue to be met. To be permitted as a temporary use a local produce stand or other establishment must be dedicated exclusively to the vending of locally grown produce and farm products. All other regulations, including MMC 8.01.050 Nuisances affecting peace and safety will still be applied. Any required license or permit administered by other agencies e.g. public health, building codes, or permits to access the Historic Columbia River Highway are still required. If during the annual ministerial compliance review, it is determined that impacts of the TUP are increasing, changing in scope, or having unanticipated permanent effects on the surrounding area, a full CUP may be required to permit the use as a permanent use.

15.03.200 - Bluff Impact and Riparian Protection Areas.

A. Bluff and bluff impact zone. The general definition of a *bluff* is a topographical feature such as a hill, cliff, or embankment that has the following characteristics:

- Is located along a riparian area and drains towards the water
- Minimum height is 25 feet above the ordinary high water level
- Minimum slope is 30 percent (see graphic for how to calculate slope)

The bluff impact zone includes the bluff and the land located within 20 feet from the top of the bluff.

B. Riparian areas. (per OAR 660-23-0030 Safe Harbor Provisions) Along all fish-bearing rivers, streams and other waters with an average annual stream flow greater than 1,000 cubic feet per second (cfs) the riparian area boundary shall be seventy-five (75) feet from the top of bank; i.e. ordinary high water for Rock and Mosier Creeks, average pool elevation for Columbia River

C. Land Use Requirements for Riparian Areas and Bluff impact zones.

1. The permanent alteration of riparian areas by grading or by the placement of structures or impervious surfaces is prohibited, except for the following uses

provided they are designed to avoid and minimize intrusion into the riparian corridor, no other options or locations are feasible, and any applicable state and/or federal permits are obtained:

a. Streets, roads and bridges, excluding parking or storage areas.
b. Construction of permeable trails, boardwalks and viewing platforms, information kiosks and trail signs.
c. Drainage facilities, utilities, and irrigation pumps.
d. Stormwater treatment facilities when they are located in severely degraded parts of significant riparian corridors and designed so as to enhance overall function of the riparian resource (for example a grassy swale or constructed wetland with a buffer of native vegetation and that is located within previously farmed or cleared area).
e. Water-related and water-dependent uses (for example boat launch, fishing dock).
f. Replacement of existing structures with structures in the same location that do no disturb additional riparian corridor surface area.
g. Structures or other non-conforming alterations existing fully or partially within significant riparian corridors may be expanded provided the expansion does not occur within the significant riparian corridor.
h. Existing garden, lawn and non-native plantings within significant riparian corridors may be maintained, but not expanded within the significant riparian corridor. Development activities on the property shall not justify replacement of the riparian area with lawn.
i. Existing shoreline stabilization and flood control structures may be maintained. Any expansion of existing structures or development of new structures shall be evaluated by the local government and appropriate natural resource agency staff, for example Oregon Department of Fish and Wildlife, Division of State Lands, Department of Environmental Quality, Water Resources Department. Such alteration of the significant riparian corridor shall be approved only if less-invasive or nonstructural methods will not adequately meet the stabilization or flood control needs.

2. Removal of riparian vegetation in significant riparian corridors is prohibited, except for:
   a. Removal of non-native vegetation and subsequent replacement with native plant species. The City of Hood River shall maintain a list of native and non-native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall maintain or exceed the density of the removed vegetation.
   b. Removal of vegetation necessary for the development of approved water-related or water dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent or water-related use.
   c. Removal of poisonous or noxious vegetation.
   d. Trees in danger of falling and thereby posing a hazard to life or property may be removed. If no hazard will be created, property owners are encourage to leave trees, once felled, in place in the riparian corridor.

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e. Incidental removal of vegetation associated with recreational, educational, scientific research and land survey activities.

3. Exceptions: The following activities are not required to meet the standards of this section if applicable:

   a. Normal and accepted farming and ranching practices other than buildings or structures, occurring on land zoned for exclusive farm use and existing in the protected riparian corridor since prior to the date of adoption of this ordinance.
   b. Commercial forest practices regulated by the Oregon Forest Practices Act.

D. Variances. In cases where a property owner believes the application of this section imposes a hardship or renders an existing lot or parcel unbuildable, a property owner may request a variance. Granting of a variance requires findings that satisfy all three (3) of the following criteria:

1. The proposed development requires deviation from the Riparian Corridor requirements; and
2. Strict adherence to the requirements of this section and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and
3. The property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

E. Compliance with State and Federal Requirements. All activities wholly or partially within riparian corridors are subject to applicable Division of State Lands permit requirements under the Removal-Fill Law and U.S. Army Corps of Engineers permit requirements under Section 404 of the Clean Water Act. Where there is a difference between local, state or federal regulations, the more restrictive regulations shall apply.

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CHAPTER 15.04
PERMITS: NONCONFORMING USES, VARIANCES, SIMILAR USES, FORMAL CODE INTERPRETATIONS, MODIFICATION OF PRIOR APPROVAL

Section:

15.04.010	**Nonconforming Uses: General Rules**
15.04.020	**Variances**
15.04.030	**Authorization of Similar Uses**
15.04.040	**Formal Code Interpretations**
15.04.050	**Modification to Prior Approvals**

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

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

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

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

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

E. Relationship to vested rights. Nothing contained in this section shall require any change in the plans or construction, nor an the alteration in the permitted use of a

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structure for which a permit has been issued by the city prior to the adoption of this ordinance provided the structure or use is completed and in use within two years from the date the permit allowing the use is approved.

F. Nonconforming use verification. A property owner who claims entitlement to a nonconforming use, or the city council on its own motion, may initiate a proceeding to verify the existence, nature and extent of a claimed nonconforming use or structure. Any such request shall follow a Type III process as provided in Chapter 15.07 *Administration and Procedures*. The person claiming the existence of a nonconforming use has the burden of proving with substantial evidence the elements required to substantiate a nonconforming use.

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

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

15.04.020 – Variances.

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

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

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

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3. The variance would not be materially detrimental to the purposes of the ordinance, or to the rights or uses of near-by property owners or otherwise conflict with any Comprehensive Plan goal or policy.
4. The magnitude of variance requested is the minimum necessary to alleviate the identified hardship.

C. Minor Variances. A minor variance is any request for relief of a dimensional or numeric requirement of this ordinance that is within 10% of the specified requirement and the variance would not be materially detrimental to the purposes of this ordinance, or to the rights or uses of near-by property owners or otherwise conflict with any Comprehensive Plan goal or policy. Staff shall rule upon a minor variance application using a Type II process under Chapter 15.07 *Administration and Procedures*.

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

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

15.04.050 – Modification to Prior Approvals.

A. Major modification. Any application to modify a prior approval, or any conditions thereof, that qualifies as a "material deviation" as defined in section 15.01.060 of this ordinance, shall be processed according to the same procedure as would be required by this ordinance for the underlying approval.

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

CHAPTER 15.05
CONDITIONAL USE PERMITS

Section:

15.05.010	**Purpose and Applicability**
15.05.020	**Site Plan**
15.05.030	**Approval Standards**
15.05.040	**Authority and Basis for Conditions**
15.05.050	**Change in Use or Conditions**

15.05.010 – Purpose and Applicability.
A. All proposals for development that propose a use listed as being conditionally allowed in the applicable zone are allowed through a Type II process as provided in Chapter 15.07 *Administration and Procedures*. Applicants should look to the zoning regulations for the underlying zone to determine which uses are conditionally allowed. A conditional use may only be allowed if all of the approval standards in this Chapter are met. In addition, certain conditional uses are further limited by definition in Chapter 15.01 *Introductory Provisions* or by special provisions in Chapter 15.03 *Supplemental Provisions*.

B. Impacts of Conditional Uses. It is assumed that any listed conditional use, in at least some form, is acceptable and allowed in the zone in which it is listed, but there are also assumed to be certain adverse impacts or characteristics inherent in a conditional use that require conditions to avoid, mitigate or eliminate those impacts. For listed conditional uses, the focus of the permitting process is to assess the likely impacts and the appropriate conditions of approval to avoid, mitigate or eliminate those impacts. Only where the impacts cannot be avoided, eliminated or mitigated to an acceptable degree, may the use be denied. Applicants must submit a site plan in accordance with this chapter. Any conditions so imposed on a conditional use permit are considered to be legally binding and enforceable on the holder of the permit. Any violation of, or failure to comply with, those conditions will subject the property owner, permit holder, or person engaged in the use to enforcement and possible revocation of any permit. Where a use is not specifically listed as being conditionally allowed, the applicant may seek a similar use determination under Chapter 15.04 *Permits: Nonconforming Uses, Variances, Similar Uses, Formal Code Interpretations, Modification of a Prior Approval* of this ordinance through a Type II process.

15.05.020 – Site Plan Required. Site Plan Requirements. All conditional use permit applications shall include:
A. A site plan, which shall be drawn to scale and include all information required for Site Plan Review, per Section 15.06.030.

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B. A detailed description of any requested variance shall also accompany the conditional use permit application prior to the application being determined complete.

15.05.030 – Approval Criteria. No conditional use permit shall be approved unless the applicant demonstrates compliance with, and provides substantial evidence that, the following standards are met:

A. The use proposed is listed as a conditionally allowed use in the zoning regulations applicable to the subject property.

B. The characteristics and location of the subject property are suitable to accommodate the proposed use, including availability and capacity of sanitary sewer, storm drainage facilities, water, transportation and pedestrian facilities.

C. The proposed use will not have any unacceptable adverse impacts upon any use existing or allowed on any properties in the area and will not be materially detrimental to the health, safety, or general welfare of persons residing or working in the area. In making this determination, the city shall consider any possible conditions or limitations that may be placed on the use or activity so as to avoid or reduce impacts to the minimum practicable level and mitigate any impacts that cannot be avoided or minimized. The use may be subject to a periodic or annual review requirement to verify that impacts, in fact, have been eliminated or mitigated to an acceptable level.

D. All needed public facilities including sewer, water, stormwater drainage and transportation are available to the subject property with adequate capacity to serve the proposed use.

F. Approval of the proposed use does not conflict with any provision of the Comprehensive Plan, applicable city ordinance or regulations, nor any previously approved permit.

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

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

B. Public Facilities. Where any required public facility is not available with adequate capacity to serve the property or proposed use, the permit may be denied or the applicant may be required to correct or pay for the correction of the deficiency or mitigate in some other way.

C. Traffic. Dedication of land for streets, sidewalks, bikeways, paths, or accessways will be required where the existing transportation system, including sidewalks, will be impacted by or is inadequate to handle the additional burden caused by the proposed use. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use shall be required where the existing transportation system may be burdened by the proposed use.

D. Compatibility - The height, bulk and scale of buildings shall be compatible with the site and the buildings in the vicinity.

E. Design - Variety of detail, form and siting shall be used to provide visual interest. Buildings may be required to modulate the façade if a single uninterrupted length of façade will dominate the streetscape. Selection and use of building materials shall promote harmony with surrounding structures and sites. Architectural features such as those in Figure 15.03-B may be required as necessary to help ensure compatibility of the proposed use.

F. Operational Characteristics – The nature of the use including hours of operation may be limited as necessary to ensure the use will not have undue adverse affects on surrounding permitted uses.

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

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

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CHAPTER 15.06
SITE PLAN REVIEW

Sections:

15.06.010	**Applicability**
15.06.020	**Application Procedure**
15.06.030	**Submittal Requirements**
15.06.040	**Decision Criteria**
15.06.050	**Effect of Approved Site Plan Review Permits**

15.06.010 – Applicability.

A. A site plan review permit shall be required for the following circumstances (unless exempted below):

1. New construction.
2. Expansion, remodel, or exterior alteration of any building or other structure.
3. Change of use.
4. Multi-family and group residential.
5. Removal or fill of over 5,000 cubic yards of land.

B. Exemptions from site plan review are as follows;

1. Any activity that does not require a building permit and is not considered by the Director to be a change in use.
2. Interior work which does not alter the exterior of the structure or effect parking standards by increasing floor area.
3. Normal building maintenance including the repair or maintenance of structural members.
4. All residential development, in residential zones, except multi-family and group residential.

15.06.020 – Application Procedure. The city planner shall review all site plan review applications subject to Type II review procedures. However, if an application is unusually complicated or contentious due to site constraints or due to the complexity of the project, the application may be reviewed subject to a Type III process. In either case, in accordance with Chapter 15.07 *Administrative Procedures,* a pre-application conference is required prior to accepting an application for completeness review.

15.06.030 – Submittal Requirements.

A. The site plan shall be drawn to scale and indicate all of the following:

1. Dimensions and orientation of the parcel.
2. Locations and heights of buildings and structures, both existing and proposed. Scaled elevation drawings and photographs shall be provided when required.
3. Location and layout of parking and loading facilities, including bicycle parking as required pursuant to 15.03.030-J *Bicycle Parking*;

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4. Location of points of entry and exit for pedestrians and motor vehicles, and internal circulation patterns in compliance with the requirements of Chapter 15.03 *Supplemental Provisions* and accepted engineering guidelines and practices. Information shall include number and direction of driveway lanes and striping plans.
5. Demonstration of coordination with Oregon Department of Transportation (ODOT) if new access to ODOT right of way is proposed or the use of an existing point of access is proposed to be altered.
6. Location of existing and proposed walls and fences and indication of their height and materials.
7. Proposed location and type of exterior lighting as required by Chapter 8.30 of MMC.
8. Proposed location and size of exterior signs as required by Chapter 8.20 of MMC..
9. Site specific landscape plan including percentage of total net area.
10. Location and species of trees greater than six (6) inches in diameter when measured four (4) feet above the ground and an indication of which trees are to be removed.
11. Contours mapped at two (2) foot intervals shall be provided when required. (five [5] foot contours may be allowed on steep slopes).
12. Natural drainage.
13. Other significant natural features.
14. Legal description of the lot.
15. Percentage of the lot covered by any and all proposed and remaining structures to include asphalt concrete and other impervious materials.
16. Locations and dimensions of all easements and nature of the easements.
17. Service areas for uses such as loading and delivery.
18. Grading, erosion, and storm water control plan(s) shall be provided when required.
19. Transportation impact study shall be provided when required.
20. Plat map showing property lines of the subject property, adjacent rights-of-way, and ownership.
21. Other site elements that will assist in the evaluation of site development.

B. A statement of operations with a brief narrative on the nature of the activity shall also be submitted, including:

1. Number of employees;
2. Method of import and export;
3. Hours of operation including peak times; and
4. Plans for future expansion.

15.06.040 – Decision Criteria. The following decision criteria are applicable to all site plan reviews:

A. Grading. Grading of a site shall take place only upon verification that, onsite surface drainage and on-site storage of surface water facilities be constructed when

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necessary, so there is no adverse effect on neighboring properties, public rights-of-way, or the public storm drainage system. Graded areas shall be replanted as soon as possible after construction to prevent erosion. A grading, erosion, and storm water control plan may be required.

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

C. Public Facilities. Adequate capacity of public facilities for water, sanitary sewers, storm drainage, fire protection, streets, and sidewalks shall be provided to the subject parcel. Development of on-site and off-site public facilities necessary to serve the proposed use shall be consistent with the Comprehensive Plan and any adopted public facilities plan(s). Underground utilities may be required. On-site detention or treatment of storm water may be required.

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

1. *On-site circulation* shall be designed according to accepted engineering guidelines to be safe and efficient and shall comply with the requirements of Chapter 15.03 *Supplemental Provisions*, Chapter accepted engineering standards and practices.

2. *Minimum improvement and design standards* are located in Title 16 - *Subdivision of Land* specifically in Chapter 16.02 - *Minimum Improvements and Design Standards*. The Standards adopted in Chapter 16.02 and are not restated in the MZO but may be applicable to Site Plan Review even if a land division does not result. Adopted minimum improvement and design standards will be reviewed by the city planner, in consultation with the city engineer. The City Planner will determine which, if any, of the adopted standards are applicable to the proposed development subject to Site Plan Review. When improvements are required, the applicant will be required to meet all applicable improvement and design standards including minimum improvement design review procedures and inspection requirements.

2. *The access point(s)* between the subject property and the public street shall be reasonably safe and shall comply with accepted engineering standards as approved by City Engineer, while providing for required access per Section 15.03.020 *Access and Frontage Requirements*, and adequate parking per Section 15.03.130 *General Requirements for Parking Lots.* Other Factors to be considered in evaluating the adequacy of proposed access points include the average speed of the traffic on the public street(s), the proposed use and geometry of the access

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points, the distance between the existing and proposed access points, and sight distance from and to proposed points of access.

3. *Affect on local street network:* The proposed use shall not have an adverse effect on the public transportation system. For developments that are likely to generate more than 400 average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study including traffic counts and analysis sufficient to demonstrate the anticipated level of impact to the affected street system. Every effort will be made to inform the applicant, within twenty (20) days of receiving a completed application, whether a traffic impact study and/or a determination of the resulting level of service will be required. Unforeseen circumstances could result in a delayed request for this information. The required traffic impact study shall be prepared by an Oregon licensed traffic engineer. The determination of most probable impacts or effects to be considered and the scope of the impact study should be coordinated with the provider of the affected transportation facility.

4. *Access to all state highways* may require a permit from ODOT. Access spacing and location along state highways shall address the Access Management Policies and standards of the Oregon Highway Plan. Frontage improvements, such as curb and sidewalk to ADA standards, may be required by ODOT as a condition to access.

5. *Route selection for on site circulation and proposed roads or access ways*: All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.

6. *Adequate type and location of access*: Any proposed street system extension or improvement or on site circulation shall provide adequate access to buildings for residents, visitors, emergency vehicles, and service vehicles such as garbage collection or delivery trucks.

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

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

G. Equipment Storage. Location or storage of mechanical equipment shall be reasonably well screened from view. Working equipment shall be sited to ensure adequate sound buffering to meet, at a minimum, the requirements of MMC Section 8.01.050 *Nuisances Affecting Peace and Safety.*

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

K. Parking - Parking areas shall be located behind the buildings or on one or both sides in accordance with Section 15.03.130 *General Requirements for Parking Lots*.

15.06.050 – Effect of Approved Site Plan. Approved Site Plan is binding. Development subject to Site Plan Review must be constructed in compliance with the final approved binding site plan and all applicable conditions of approval. Adjustments or modifications to the approved site plan may be made only in accordance with MMC 15.04.050.

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CHAPTER 15.07
ADMINISTRATION AND PROCEDURES

Section:

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15.07.040	**Application Requirements**
15.07.050	**Completeness Review and 120-Day Rule**
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15.07.230	**Revocation of a Previously Approved Permit**
15.07.240	**Authority to Condition Permit Approvals**

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

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

TABLE 15.07-A
Summary of Approval Procedures

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

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

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

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C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards and are required to be heard by the city council. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations, quasi-judicial zone change and comprehensive plan amendments. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the city council hearing is published and mailed to the applicant and property owners within 100 feet. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. At the evidentiary hearing held before city council all issues are addressed. The city council's decision is the city's final decision and is appealable to LUBA.

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

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

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

15.07.050 – Completeness Review and 120-Day Rule. Upon submission, the city recorder shall date stamp the application form and verify that the appropriate application fee has been included. The city planner will then review the application and all

information submitted with it and evaluate whether the application is complete enough to process. If the application is not complete to process, the city planner shall notify the applicant and identify what information must be submitted to make the application complete.

A. Completeness. Once the city planner determines the application is complete enough to process, or the applicant refuses to submit any more information, the city shall declare the application complete and take final action on the application within 120 days of that date unless the applicant waives or extends the 120-day period. The 120-day clock, however, will be suspended or inapplicable in the following situations:

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

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

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

A. An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.

B. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s). If the applicant is different than the owner, then a complete application shall also include a written and signed statement from

all recorded property owners that the applicant is authorized to apply for the proposed development.

C. A complete list of the permit approvals sought by the applicant.

D. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required to approve the development proposal and which explains how the criteria are or can be met, and any other information indicated by staff at the pre-application conference as being required.

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

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

G. All required application fees.

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

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

1. Name and mailing address of the applicant, and street address or other easily understood location of the subject property.
2. A description of the applicant's proposal, along with citations of the approval criteria that the city will use to evaluate the proposal.
3. A statement that any interested party may submit to the city written comments on the application during a 14-day comment period prior to the city's deciding the application, along with instructions on where to send the comments and the deadline of the 14-day comment period.
4. A statement that any issue which is intended to provide a basis for an appeal to city council or the Land Use Board of Appeals must be raised in writing during the 14-day comment period with sufficient specificity to enable the city to respond to the issue.

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5. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge, and that copies may be obtained at a reasonable cost at City Hall during normal business hours.
6. The name and telephone number of the city planner responsible for the application or otherwise available to answer questions about the application.

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

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

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

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

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3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed, including a description of the geographic range, area or location of the land that will be affected by the proposal.
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing.
5. The name and telephone number of the city planner responsible for the proposal and who interested people may contact for further information.
6. A statement that failure of any person entitled to notice under subsection 15.07.070-C to receive notice shall not invalidate the action, provided that the city can demonstrate by certificate of mailing that such notice was sent.

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

A. Notice of the hearing shall be issued at least 20 days prior to the hearing in accordance with Section 15.0.070 of this ordinance.

B. The city planner shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria, and makes a recommendation as to whether each of the approval criteria are met. The staff report shall be made available to the public for inspection and copying at least 7 days prior to the scheduled hearing.

C. At the beginning of the initial public hearing for any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:

1. That the hearing will proceed in the following general order: Staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, applicant's rebuttal, record closes, city council deliberation and decision.
2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open.
3. Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to allow the city and all parties to respond to the issue, will preclude appeal on that issue to the Land Use Board of Appeals.
4. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city to respond to the issue precludes an action for damages in circuit court.

5. Any party wishing a continuance or to keep open the record must make that request while the record is still open.
6. That the mayor shall call for any ex parte contacts, conflicts of interest or bias before the beginning of each hearing.

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

15.07.090 – Conditions of Approval and Notice of Decision.

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

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

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

1. The date of decision.
2. The name of the applicant, owner and appellant (if different).
3. The street address or other easily understood location of the subject property.
4. A brief summary of the decision, and if an approval, a description of the development that was approved.
5. A statement that the decision is final unless appealed, and a description of the requirements for perfecting an appeal.
6. The contact person, address and telephone number whereby a copy of the final decision may be inspected or copies obtained.

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

15.07.100 – Performance Guarantees. When conditions of permit approval require the applicant to construct certain improvements, the city may allow the applicant to submit a

financial guarantee in lieu of actual construction of the improvement. Financial guarantees shall be governed by this section.

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

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

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

D. If the applicant elects to defer construction of improvements by using a financial guarantee, the applicant shall agree to construct those improvements upon written notification by the city, or at some other mutually agreed to time. If the applicant fails to commence construction of the required improvements within 6 months of being instructed to do so, the city may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in paragraph C above.

15.07.110 – Covenant with the City.

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

1. An agreement that the applicant will comply with all applicable code requirements, conditions of approval and any representations made to the city by the applicant or the applicant's agents during the application review process, either orally or in writing. This commitment shall be binding on the applicant and all the applicant's successors, heirs and assigns.

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2. If the owner fails to perform under the covenant, the city may immediately institute revocation of the approval or any other enforcement action available under state law or the municipal code. The covenant may also provide for payment of attorney fees and other costs associated with any such enforcement action.
3. Where the development rights of one site are dependent on the performance of conditions by the owner of another property (such as joint access), the covenants are judicially enforceable by the owner of one site against the owner of another.

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

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

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

B. Conflict of Interest. Whenever a decision maker, or any member of a decision maker's immediate family or household, has a financial interest in the outcome of a particular quasi-judicial or legislative matter, that decision maker shall not participate in the deliberation or decision on that matter.

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

15.07.130 - Legislative Hearing Process.

A. Purpose. Legislative actions involve the adoption or amendment of land use regulations, Comprehensive Plan, map inventories and other policy documents that affect

the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the city council.

B. City Council Review:

1. *Hearing Required.* The city council shall hold at least one public hearing before taking action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The city recorder, in coordination with the city planner, shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post acknowledgment procedures of ORS 197.610 to 197.625, as applicable.
2. *City Planner's Report.* Once the city council's hearing has been scheduled and noticed in accordance with the Type IV notice procedures and any other applicable laws, the city planner shall prepare and make available a report on the legislative proposal at least 7 days prior to the hearing.
3. *City Council Decision.* The city council shall adopt a written decision on the proposal. The city council's decision is appealable to the Land Use Board of Appeals (LUBA) or the Land Conservation and Development Commission (LCDC), as provided by state law.

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

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

A. Type I decisions by the city planner are not appealable to the city council.

B. A written Notice of Appeal of a Type II decision by the city planner must be received by the city recorder within 10 calendar days from the date notice of the challenged decision is provided to those entitled to notice. If the city's Notice of Decision is mailed, any appeal must be received by the city recorder within 14 calendar days from the date the challenged decision was placed in the mail. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

C. The following must be included as part of the Notice of Appeal:

1. The date the decision to be appealed was rendered.
2. The name, mailing address and daytime telephone number for each appellant.

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3. A statement of how the appellant has an interest in the matter and standing to appeal.
4. A statement of the specific grounds for the appeal.
5. The appropriate appeal fee. Failure to include or otherwise provide the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

D. Standing to Appeal. For Type II decisions, only those persons who submitted written comments within the 14-day comment period have standing to appeal a city planner's decision. Grounds for appeal are limited to those issues raised in writing during the 14-day comment period.

E. Notice of the Appeal Hearing. The city recorder shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record in accordance with Chapter 15.07 *Administration and Procedures*. Notice of the appeal hearing shall contain the following information:

1. The date of the decision being appealed.
2. The time, date and location of the public hearing.
3. The name of the applicant, owner and appellant (if different).
4. The street address or other easily understood location of the subject property.
5. A description of the permit requested and the applicant's development proposal.
6. A brief summary of the decision being appealed and the grounds for appeal listed in the Notice of Appeal.
7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal.
8. A general explanation of the requirements for participation and the city's hearing procedures.

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

15.07.160 - Expiration of Approval.

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

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

B. New Application Required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright. If a

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new application is filed, approval or denial shall be controlled by the standards in effect at the time the new application is submitted.

15.07.170 – Extension of an Approval.

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

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

1. The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit.
2. Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder.
3. The request for an extension is not sought for purposes of avoiding any responsibility imposed by this code or the permit or any condition there under.
4. There have been no changes in circumstances or the law likely to necessitate significant modifications of the development approval of conditions of approval.

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

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

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

15.07.200 – Reconsideration of a Final Decision. Under this section, parties with standing may seek reconsideration of a final decision rendered pursuant to a Type I, II, III or IV process. Reconsideration is warranted where the city's decision indicates the decision maker failed to understand or consider certain relevant facts or misinterpreted the application in some material way. Any request for reconsideration must be received by the city recorder within 10 days of when the decision in question was rendered and must specifically describe the alleged misunderstanding or misinterpretation. A request for reconsideration shall not stay the effectiveness of the city's final decision, nor shall it

affect any applicable appeal deadlines to the Land Use Board of Appeals. If the request is granted, the city recorder shall notify all affected parties that the decision will be reconsidered. If the reconsideration is based on new evidence or information all parties with standing shall have the opportunity to review and comment on the new evidence or information. Any request for reconsideration by the applicant shall be deemed a waiver of the 120-day deadline. Notwithstanding anything in this Chapter, the city council may on its own motion withdraw a previously final decision for reconsideration at any time.

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

15.07.220 – Fees. The city may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals. Fees shall be based upon the city's actual or average cost of processing the application or conducting the appeal process. The only exception shall be the appeal fee for Type II decisions shall be limited by ORS 227.175(10)(b). The requirements of this section shall govern the payment, refund and reimbursement of fees.

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

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

1. *Misapplied.* When a fee is paid for an application which is later found not to be required, the city shall refund the fee.
2. *Errors.* When an error is made in calculating a fee, overpayments will be refunded.
3. *Withdrawals.* In the event an applicant withdraws an application, the city recorder shall refund the unused portion of the fee. In this case, the city recorder will deduct from the fee the city's actual costs incurred in processing the application prior to withdrawal.
4. *Remainder of Special Deposit.* Sometimes funds collected as a special deposit for permit reviews that have been determined to require a level of review that will clearly exceed the average permit fee. When this occurs the city recorder shall refund the unused portion of the fee. In this case, the city recorder will deduct from the fee the city's actual costs incurred in processing the application prior to refunding remaining deposit.

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

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

Some permit reviews are readily determined to be significantly more complex than the typical or average permit review. The city may require the applicant to deposit an amount with the City which is estimated to be necessary to cover the costs of an especially complex permit review. A special permit deposit will be required at the discretion of the Mayor with input from consultants relied on to provide review services. Such special deposit shall be sufficient to cover anticipated costs of retaining professional services. The amount may exceed the average costs of permit fees but shall not exceed the estimated actual review costs. If actual costs incurred are less than the special deposit a refund can be issued per

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

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

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

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

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

1. The city council may find that the use or development is complying with the conditions of approval. In this case, the use or development shall be allowed to continue.
2. The city council may modify the approval if it finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if certain conditions are met. In this case, the city council may modify the existing conditions, add new conditions to ensure compliance with the approval criteria, or refer the case to the city attorney for enforcement of the existing conditions.
3. The city council may revoke the approval if it finds there are substantial violations of conditions or failure to implement conditions of prior land use decisions, such that the original approval criteria for the use or development are not being met.

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

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

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CHAPTER 08
ANNEXATION

Sections:

15.08.010	**Introduction**
15.08.020	**Application and Process**
15.08.030	**Filing Fees**
15.08.040	**City Council Review**
15.08.050	**Evaluation Criteria: Developed Land**
15.08.060	**Evaluation Criteria: Undeveloped Land**
15.08.070	**Factors to be Considered when Determining Fiscal Impact**
15.08.080	**Factors to be Considered when Determining Urban Service Capabilities**
15.08.090	**Staff Analysis**

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

A. The proposed annexation represents the natural extension of the existing city boundary consistent with urban growth.

B. The proposed annexation would not, when developed or as developed, unreasonably limit the ability of the city to provide a level of services to city residents consistent with community needs and the financial capabilities of the city, as determined by the city.

C. The proposed annexation would not cause the city to pledge extension of services beyond its resources so as to result in a deficit operation of the service.

D. The proposed annexation would serve the interests of the entire community and not solely the interests or convenience of those within the territory proposed to be annexed.

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

A. Preliminary plans and specification, drawn to scale, showing the actual shape and dimensions of the property to be annexed and the existing and proposed land uses and residential density. City and county zoning in the proposed territory, as shown on a vicinity map, and contiguous lands must be indicated also.

B. Comprehensive statement of reasons in support of the annexation addressing the applicable annexation criteria.

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C. Completed certification of property ownership, registered voter status, map, and legal description.

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

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

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

A. The territory is contiguous to the city limits and within the Urban Growth Area.

B. The annexation represents a logical extension of the existing city boundary to accommodate urban growth.

C. The development of the property is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area.

D. The city is capable of providing and maintaining its full range of urban services to the territory without negatively impacting the city's ability to adequately serve all areas within the existing city limits.

E. The fiscal impact of the annexation is favorable, as determined by the City of Mosier because of existing development.

F. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area.

G. The annexation conforms with the Comprehensive Plan.

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

A. The territory is contiguous to the city limits and within the Urban Growth Area.

B. The annexation represents the natural extension of the existing city boundary to accommodate urban growth.

C. The annexation of the territory is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area.

D. The city is capable of providing and maintaining its full range of urban services to the property without negatively impacting the city's ability to adequately serve all areas within the existing city limits.

E. The fiscal impact of the annexation is favorable, as determined by the City of Mosier, either upon approval or because of a commitment to a proposed development, unless the city determines that a public need outweighs the increase.

F. The annexation meets the city's urban growth needs and it is to the city's advantage to control the growth and development plans for the territory (i.e., to be able to address the issues of traffic, density, land use and the level and timing of necessary facilities and services). This criterion does not apply where the annexation provides a solution for existing problems resulting from insufficient sanitation, water service, needed routes for utility or transportation networks or other service-related problems.

H. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area.

I. The annexation conforms with the Comprehensive Plan.

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

A. The additional revenues, if any, available to the city as a result of the annexation.

B. Whether any unusual or excessive costs will be incurred as a result of the annexation.

C. The impact on the city's tax base if any, as a result of the annexation.

15.08.080 – Factors to be Considered when Determining Urban Service Capabilities.

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

B. The projected costs of supplying reasonably needed municipal services to the territory proposed to be annexed.

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

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CHAPTER 15.09
LANDSCAPING STANDARDS

Section:

15.09.010	**Purpose**
15.09.020	**Procedure**
15.09.030	**Submittal Requirements for Landscaping Plan**
15.09.040	**General Landscaping Standards**
15.09.050	**Landscaping and Development Standards for Entrances**
15.09.060	**Violation**

15.09.010 - Purpose.
A. Landscaping standards apply to all new multifamily, commercial and industrial uses, including change of use, and parking lots of 4 spaces or more.

B. For sites which do not conform to these requirements, an equal percentage of the site must be made to comply with these standards as the percentage of building or parking lot expands, (e.g., if the building or parking lot area is to expand by 25%, then 25% of the site must be brought up to the standards required by this ordinance).

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

A. The city planner shall review all landscaping plans for compliance with the provisions of this ordinance and notify the property owner of deficiencies in a submitted plan.

B. A building permit, conditional use permit or site plan review shall not be issued until a landscaping plan has been approved.

C. The required landscaping shall be in place prior to issuance of a certificate of occupancy or a schedule for its completion prepared and approved.

15.09.030 – Submittal Requirements for Landscaping Plan. A landscaping plan submitted to the city as required by this ordinance shall identify the placement and type of plant materials, including all necessary irrigation systems. Submittals may be required by the city to be reviewed by a qualified professional experienced and knowledgeable in design, installation, maintenance, and survival with native, drought tolerant plants, of local origin. When required review by the qualified professional shall be sufficient to provide an effective means for evaluating whether the chosen plant materials will be able to and include:

A. Survive in the climate and soils of the proposed site.

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B. Satisfy the functional objectives of landscaping as detailed in this ordinance, including erosion control, screening and shade within a reasonable time.

C. Location of underground irrigation system including drip sprinkler heads or other water saving irrigation methods where applicable.

D. Location and height of fences, buffers, and screening.

E. Location of terraces, decks, shelters, play areas, and common open spaces.

F. Location, type, size, and species of existing and proposed plant materials with delineation of which trees and plant materials will be retained.

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

A. The standards set forth in this ordinance are minimum standards for landscaping.

B. Unless otherwise provided by a lease agreement, the owner, tenant, and their agent, if any, shall be jointly responsible for the maintenance of all landscaping. Landscaping material shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from refuse and debris.

C. The property owner shall be responsible for any future damage to a street, curb or sidewalk caused by landscaping.

D. Landscaping shall be selected and located to deter sound, filter air contaminants, curtail erosion, contribute to living privacy, reduce the visual impacts of large buildings and paved areas, screen, and emphasize or separate outdoor spaces of different uses or character.

E. Landscaping in parking areas shall be planted in combination along the perimeter and in the interior of the lot and shall be designed to guide traffic movement and lessen the visual dominance of the lot.

F. Plants that minimize upkeep, water consumption, and maintenance shall be selected.

G. Plants shall complement or supplement surrounding natural vegetation. Specifically, native plant species that are drought resistant shall be selected.

H. Plants chosen shall be in scale with building development.

I. Minimum landscaping as a percent of gross site area shall be as follows:

TABLE 15.09-A
Minimum Landscaping Area Requirements by Zone

ZONE	PERCENT
Multifamily	20%
Commercial	15%
Industrial	15%
Parking Lots	10%

J. Deciduous trees shall have straight trunks, be fully branched, have a minimum caliper of 1½ inches unless a smaller tree is determined by a specialist in local native plants, to have significantly increased survival rate and comparable other benefits within the first five years and be adequately staked for planting.

K. Evergreen trees shall be a minimum of 3 feet in height, unless a smaller tree is determined by a specialist in local native plants, to have significantly increased survival rate and comparable other benefits within the first five years. Trees shall be fully branched and adequately staked for planting.

L. Shrubs shall be a minimum 18 inches in height and spaced not more than 4 feet apart for planting.

M. Watering systems shall be installed to assure landscaping success and shall be demonstrated to minimize water consumption. If plantings fail to survive, it is the responsibility of the property owner to replace them.

N. Trees shall not be planted closer than 25 feet from the curb line of intersections of streets or alleys, and not closer than 10 feet from private driveways (measured at the back edge of the sidewalk), fire hydrants, or utility poles.

O. Street trees shall not be planted closer than 20 feet to light standards. Except for public safety, no new light standard location should be positioned closer than 10 feet to any existing street tree, and preferably such locations will be at least 20 feet distant.

P. Trees shall not be planted closer than 2½ feet from the face of the curb except at intersections, where it should be 5 feet from the curb in a curb return area.

Q. Where there are overhead power lines, tree species that will not interfere with those lines shall be chosen.

R. Trees shall not be planted within 2 feet of any permanent hard surface paving or walkway. Sidewalk cuts in concrete for trees shall be at least 4 feet by 4 feet; however, larger cuts are encouraged because they allow additional air and water into the root system and add to the health of the tree. Space between the tree and such hard surface

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may be covered by permeable non-permanent hard surfaces such as grates, brick on sand, paver blocks, cobblestones, or ground cover.

S. Trees, as they grow, shall be pruned to their natural form to provide at least 8 feet of clearance above sidewalks and 12 feet above street roadway surfaces.

T. Existing trees may be used as street trees if there will be no damage from the development which will kill or weaken the tree. Sidewalks of variable width and elevation may be used to save existing street trees, subject to approval by the city Engineer.

U. Vision clearance hazards shall be avoided.

V. The installation of all landscaping shall be as follows:

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

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

A. For sites which do not conform to these requirements, an equal percentage of the site must be made to comply with these standards as the percentage of building or parking lot expansion, e.g., if building or parking lot area is to expand by 25%, then 25% of the site must be brought up to the standards required by this ordinance.

1. Entrances. Along Highway 30 starting at Mosier Manor and ending one-half mile east of Mosier Creek Bridge
2. Standards.
   a. An average 10 foot wide landscaped area, at minimum, shall be planted along the perimeter of the parcel fronting the street right-of-way as part of the landscape requirement.
   b. Street trees shall be placed at the rate of one tree for every 30 feet of street frontage. Trees shall be evenly spaced, with variations to the spacing permitted for specific site limitations, such as driveway approaches.

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

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CHAPTER 15.10
ZONE CHANGES AND COMPREHENSIVE PLAN AMENDMENTS

Sections:

15.10.010	**Initiation of the Amendment and Process**
15.10.020	**Criteria**
15.10.030	**Conditions of Approval**

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

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

A. The proposal shall be consistent with the goals and policies of the Comprehensive Plan, with the applicable State-wide Planning Goals, and with any other applicable state or local requirement.

B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to development under the proposed zoning. Service shall be sufficient to support the range of uses and development allowed by the zone.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.

D. That the proposed change is in the public interest and supports the general public welfare.

15.10.030 – Conditions of Approval. In granting a property-specific zone change, the city council may attach such conditions and requirements to the zone change as it deems necessary to achieve or ensure compliance with the approval criteria. Any conditions attached to a quasi-judicial zone change approval must be accepted in writing by the property owner, recorded with the Wasco County deed

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records, and the zone change shall not become effective until the written acceptance is executed.

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CHAPTER 15.11
WIRELESS COMMUNICATIONS FACILITIES – STANDARDS AND PROCESS

Sections:

15.11.010	**Purpose**
15.11.020	**Definitions**
15.11.030	**Application Requirements**
15.11.040	**General Regulations**
15.11.050	**Review Process and Approval Standards**
15.11.060	**Exemptions**
15.11.070	**Maintenance**
15.11.080	**Certifications and Inspections**
15.11.090	**Abandonment or Discontinuation of Use**
15.11.100	**Violation, Enforcement and Revocation**

15.11.010 Purpose. This chapter is intended to provide a uniform and comprehensive set of standards for the development, siting and installation of wireless telecommunications facilities. These regulations are intended to protect and promote the public health, safety and welfare of the residents of Mosier, to preserve community character and protect aesthetic quality in accordance with the guidelines and intent of the Telecommunications Act of 1996 and to encourage siting in preferred locations to minimize aesthetic impacts and to minimize the intrusion of these uses into the views of the Columbia River Gorge as seen from the Historic Columbia River Highway and residential areas within the city.

15.11.020 Definitions. The following words and phrases used in this chapter shall have the following meanings:

A. Antenna means any system of wires, poles, rods, reflecting discs or similar devices designed for telephonic, radio, facsimile, data or television communications through sending and/or receiving of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include, but not be limited to, devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted up and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be part of the antenna.

B. Antenna height means the vertical distance measured from the ground surface at grade to the tip of the highest point of the proposed structure.

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C. Antenna support means any pole, telescoping mast, tower tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

D. Applicant means a person who applies for a wireless facility siting. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, lessor, consultant or architect.

E. Camouflaged means any telecommunications facility that is designed to blend into the surrounding environment. Examples of camouflaged facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, towers made to look like trees and antenna structures designed to look like light poles. Camouflaged facilities may be considered low or high visibility depending on the type of facility, degree of camouflaging and compatibility with the surrounding existing environment (see definitions of low and high visibility).

F. Co-location means locating wireless telecommunications equipment from more than one provider on a single site.

G. Community character means those unique attributes including, but not limited to, architecture, historical and cultural features, historical development patterns, landscape, hardscape and the size, scale and spacing of buildings and other structures that define a community's identity.

H. Equipment building, shelter or cabinet means a cabinet or building used to house equipment used by telecommunication providers at a facility.

I. Façade mounted antenna means an antenna architecturally integrated into the façade of a building or structure.

J. Facility means a wireless telecommunications facility.

K. Faux tree means a telecommunications tower camouflaged to resemble a tree.

L. Grade is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and the property line or, when the property line is more than 5 feet from the structure, between the structure and a line 5 feet from the structure.

M. Guyed tower means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

N. High visibility means the following types of telecommunications facilities:
1) Monopoles, lattice towers and guyed towers
2) Non-camouflaged facilities

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3) Faux Trees
4) Any wireless facilities that do not meet the definition of invisible or low visibility.

O. Invisible means facilities, including, but not limited to towers, antennas and equipment cabinets and any other ancillary equipment, that cannot be seen from any street or any adjacent property and do not result in any apparent architectural changes or additions. The addition of landscaping, walls, fences or grading as screening techniques does not make an otherwise visible facility invisible.

P. Lattice tower means a guyed or self-supporting three or four sided, open, steel frame support structure used to support telecommunications equipment.

Q. Low visibility means the following facilities if they do not exceed 25 feet in height:

1. Whip antennas not exceeding 6 feet in length or height, including mounting, and measuring no more than 3 inches in diameter, located on existing structures including, but not limited to, water storage tanks, high-voltage transmission towers, utility towers and poles, sign standards, and roadway overpasses, if the addition, including any vertical mounting, does not result in an increase in height of the structure of more than 5 feet, and with equipment cabinets that are screened from view by means other than new walls or fences and have total dimensions no greater than 50 cubic feet and no dimension greater than 6 feet. Cabinets in underground vaults are not included in the size calculation.

2. Panel-shaped antennas that are flush-mounted to an existing building façade or other existing structure on at least one edge, or extend a maximum of 24 inches from the building façade or other structure at any edge, do not exceed the height of the building or other structure by more than 5 feet and are designed to blend with the color, texture and design of the existing building or structure, with no visible equipment cabinet.

3. Facilities, including equipment cabinets, that are camouflaged from public view through the use of architectural treatments, such as cupolas, faux water towers, windmills or other structures and are consistent with existing development, design and community character.

4. Additions to existing permitted low-visibility facilities if the additions themselves meet the definition of low visibility and are designed to minimize visibility of both the facility and equipment cabinets that have total dimensions no greater than 50 cubic feet and no dimension greater than 6 feet and are screened from view by means other than new walls and fences. The equipment cabinet may be larger if contained inside a structure consistent with the architecture and character of the site.

5. Changes to an existing building that are consistent with the building's architectural style and the equipment cabinet is not visible.

R. Microcells provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp-posts and other street furniture. Microcell antennas are usually smaller than macrocell antennas and when mounted on existing structures can often blend into building features. Microcells provide radio coverage over distances, typically between 100m and 1000m and operate at power levels substantially below those of macrocells

S. Monopole means a wireless communication facility consisting of a single pole constructed for purposes of supporting one or more antennas without guy wires or ground anchors.

T. Panel or directional antenna means an antenna or array of antennas designed to concentrate a radio signal in a particular area.

U. Roof mounted antenna means any antenna with its support structure placed directly on the roof of any building or structure.

V. Service area means the area served by a single telecommunications facility.

W. Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

X. Tower or telecommunications tower means any mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support antennas.

Y. Whip antenna means an antenna that transmits or receives signals in 360 degrees. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting.

Z. Wireless telecommunications facility means any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas and other types of equipment for the transmission or receipt of such signals, including telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking area and other accessory development. This definition does not apply to Amateur Radio Stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules nor to TV and radio transmission facilities. Radio and television broadcast and transmission facilities are prohibited everywhere in the city unless specifically and explicitly allowed by a provision of MCC Title 15.

15.11.030 Application Requirements. All applications for a telecommunications facility shall provide three copies of the following reports, documents or documentation:

A. Geographic Service Area. The applicant shall identify the geographic service area for the proposed facility, including a map showing all the applicant's existing sites in the local service network associated with the gap the facility is meant to close. The applicant shall describe how this service area fits into and is necessary for the service provider's service network. The applicant shall include a signal strength propagation plot for the proposed facility at the preferred location.

B. Visual Impact, Technological Design Options, and Alternative Site Analysis. The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for all components of the facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. The applicant shall include an analysis of alternative sites and technological design options for the facility within and outside of the city that are capable of closing approximately the same gap in the service provider's service area as the preferred site with an equivalent or lesser visual impact. If a new tower is proposed the applicant must demonstrate the need for a new tower and why alternative locations and design alternatives such as the use of microcell cannot be used to close the gap in service provision.

C. Narrative. The application shall include a written narrative that describes in detail all of the equipment and components to be included in the facility, *e.g.*, antenna(s) and arrays, equipment cabinet, back-up generator, air conditioning unit, fencing, etc. The following information shall also be provided:

1. *Height.* Show the height of the facility. Facilities proposed in the residential or commercial zone where visible from the Historic Columbia River Highway must comply with the 35 foot height limit and special height limits established for land north of the Highway. Carriers must provide evidence that establishes that the proposed facilities are designed to the minimum height required from a technological standpoint for the proposed site to meet the carrier's coverage objectives. If the tower will exceed 60 feet, as measured from grade or exceed the base height restrictions in the residential zone or be visible from the Historic Columbia River Highway, this narrative shall include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative shall include consideration of the possibility for design alternatives including the use of multiple sites or microcell technology that would avoid the need for the new facility or the requested height.

2. *Construction.* Describe the anticipated construction techniques and timeframe for construction or installation of the facilities. This narrative shall include all temporary staging and the type of vehicles and equipment to be used.

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3. *Maintenance.* Describe the anticipated maintenance and monitoring program for the antennas, back-up equipment and landscaping.

4. *Noise/Acoustical Information.* Provide manufacturer's specifications for all equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.

5. *Concept Landscape Plan.* Provide a plan showing all proposed landscaping, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the site.

6. *Fire Service.* Provide a service letter from the local fire district.

7. *Hazardous Materials.* Listing of all hazardous materials to be used onsite.

8. *Parking.* An indication on the plot plan showing the location of parking for maintenance personnel.

9. *Co-location.* A letter stating the applicant's willingness to allow other carriers to co-locate on the proposed facilities wherever technically and economically feasible and aesthetically desirable.

10. *Lease.* The plot plan shall show the lease area of the proposed facility.

11. *FCC Application Submission.* For all applications for wireless facilities operating below 1200 megahertz, submit a copy of the Federal Communications Commission Licensing Application Form 601, Main Form, Pages 1 through 4, Schedule A, Page 1, Schedule D, Page 1 and Schedule H, Pages 1 through 3. The application shall be reviewed by the Wasco County Sheriff's office and any other emergency service radio broadcaster to determine potential interference with the local or regional communication system. Interference with any local systems may be grounds for denial.

15.11.040 – General Regulations. All applications for wireless communications facilities are subject to the following requirements and regulations:

A. High visibility facilities are prohibited in any location visible from a Residential zoned property or from the Historic Columbia River Highway.

B. Speculation, No application shall be accepted or approved for a speculation tower, *i.e.,* from an applicant that simply constructs towers and leases tower space to service providers, but is not a service provider.

C. Accessory building heights, All buildings and structures built to contain equipment accessory to a facility may not exceed 10 feet in height measured from the

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base of the foundation unless a greater height is necessary and required by condition of approval to maximize architectural integration and shall be screened by landscaping.

D. Maximum facilities per site or parcel, No more than one tower, with a maximum of three facilities, is allowed on any one site or parcel in Commercial, Public Lands and Facilities, or Industrial zones. No more than one facility is allowed on any parcel or site in a Residential or Open Space zone. This requirement may be waived by the city if a finding is made that co-location of more facilities is consistent with community character.

E. Towers adjacent to residential use, Telecommunications towers located adjacent to a residential use shall be set back from the nearest residential lot line by a distance at least equal to its total height or 50 feet, whichever is greater. The setback shall be measured from that part of the tower that is closest to the neighboring property, *i.e.*, the setback for a faux tree would be measured from the end of the branch closest to the neighboring property.

F. Equipment location, No tower or equipment shall be located in a front, rear or side yard setback in any zone, and no portion of any antenna array shall extend beyond the property lines.

G. Noise from any equipment supporting the facility shall meet the requirements of the City's Noise Ordinance on an average hourly basis.

H. Removal when necessary, All facilities located on a utility pole shall be promptly removed at the operator's expense at any time a utility is scheduled to be placed underground or otherwise moved.

I. Traffic obstruction, Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that would obstruct traffic.

J. Security, Equipment cabinets and antenna structures shall be secured to prevent unauthorized access.

K. Compliance with photo simulations, As a condition of approval and prior to use of the facility, the applicant shall submit evidence, such as photos, to the satisfaction of the city sufficient to prove that the facility is in conformance with photo simulations provided with the application.

L. All camouflaged facilities, shall be designed to visually and operationally blend into the surrounding area in a manner consistent with community character and existing development. The facility shall also be appropriate for the specific site. In other words, it should not "stand out" from its surrounding environment, such as a faux tree standing alone in a field or standing at a greater height (5 feet or more) than other trees on the site.

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M. Historical buildings and structures, No facility shall be allowed on any building or structure, or in any district, that is listed or eligible for listing on any Federal, State or local historical register unless it is determined by the city council that the facility will have no adverse effect on the appearance of the building or structure or its eligibility for historic designation. No change in architecture nor High Visibility facility is permitted on any such building, any such site or in any such district.

N. Facade-mounted antennas, shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted antennas shall not extend more than 24 inches out from the building face

O. Visual impact, All facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, landscaping with native species, whenever feasible, and camouflage, and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the least visible antennas possible to accomplish the coverage objectives.

P. Colors and materials for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including support equipment and buildings, shall be painted or textured using colors to match or blend with the primary background. All cabinets visible to the public shall be treated with a graffiti-resistant coating,

Q. Beacon lights shall not be included in the design of facilities unless required by the Federal Aviation Administration and shall be included when calculating the height of the facility.

R. No High Visibility facility, including ancillary support equipment, may be located between the face of a building and a public street, bikeway, trail or park.

S. No signs, striping, graphics, or other attention-getting devices are permitted on any telecommunication facility except for warning and safety signage with a surface area of no more than 3 square feet. Signs shall be affixed to a fence or ancillary facility and limited to no more than two signs unless more is required by law.

T. All high visibility facilities shall be sited in such a manner as to cause the least detriment to the view shed of adjoining properties.

U. Roof mounted antennas shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.

V. No net loss in required parking spaces shall occur as a result of the installation of any wireless telecommunications facility.

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W. Sidewalks and pathways, Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian and bicycle pathways on public or private land and shall be screened from the sidewalk or pathway by landscaping, undergrounding or other means, but not by means of new walls or fences.

X. City Parks, In cases where the facility site is visible from a city park or is proposed to be located in a city park, the facility shall be designed and located in such a manner as to avoid adverse visual impacts. All such locations shall use design methods such as, but not limited to, type of facility, camouflaging, screening and landscaping. No monopoles, lattice towers or guyed towers are permitted.

Y. The use of chain link fences for security of equipment is permitted if the fence is fully screened by landscaping. No razor wire or barbed wire is permitted, and slats do not satisfy the screening requirement.

Z. Site lighting shall be kept to a minimum in every instance, shall be shielded to direct the light downward, shall be controlled by a manual switch or timed switch of no greater than one hour's duration and shall not be used except when nighttime maintenance is necessary.

AA. Change to a previously permitted facility is subject to full review under the terms of this regulation.

15.11.050 Review Process and Approval Standards.

A. The following facilities are allowed with the approval of a site plan to be reviewed by the City Planner pursuant to a Type II process under Chapter 15.07 *Administration and Procedures*:

1. Invisible and low visibility facilities
2. Facilities proposed within the public right-of-way on an existing utility or light pole, so long as they meet all of the following:
   a. The antennas do not project more than 24 inches above the existing utility pole support structure;
   b. No more than a total of 2 antennas or antenna arrays are located on a single pole;
   c. The equipment cabinet is no larger than 6 cubic feet and is concealed from public view by undergrounding or screening by means other than walls or fences.
3. Façade mounted antennas or low powered networked telecommunications facilities, such as those employing microcell antennas, integrated into the architecture of an existing building in such a manner that no change to the architecture is apparent and no part of the facility is visible to public view.
4. The antennas or arrays are hidden from public view through the use of architectural treatments, *e.g.*, within a cupola, tower or other structure, which is consistent with the applicable building height limitation and existing building and community character.

5. Facilities proposed within any city-designated preferred telecommunications facility location or area if the facility, location or area, is designated as a preferred site for the specific type of telecommunications facility proposed. Note- the city may, but is not compelled to, adopt one or more sites as a preferred telecommunication facility, location, or area.

B. The City Planner shall approve the use and site plan for any of the facilities listed in the preceding Section upon a determination that the following criteria are met:

1. The location is the least visible of all possible locations and technological design options that achieve approximately the same signal coverage objectives
2. The location, size, design, and operating characteristics of the proposed facility will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
   a. Harmony in scale, bulk, coverage and density;
   b. The availability of public facilities, services and utilities;
   c. The harmful effect, if any, upon desirable neighborhood character;
   d. The generation of traffic and the capacity and physical character of surrounding streets;
   e. The suitability of the site for the type and intensity of the proposed facility; and
   f. Any other relevant impact of the proposed use in the setting where it is proposed.

C. Applications for facilities in all other locations and situations shall require a conditional use permit to be reviewed by the City Council through a Type III process under Chapter 15.07 *Administration and Procedures*, subject to the approval standards in MZO 15.05.030. In addition to the approval standards set forth in MZO 15.05.030, the applicant shall demonstrate that the approval standards in subsection 15.11.050-B are met.

D. The City has the authority to impose any reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location, or if compliance with all of the applicable approval criteria cannot be achieved through the imposition of reasonable conditions, the application shall be denied.

15.11.060 – Exemptions. The following shall be considered exempt structures or activities under this Chapter:

A. Whip or other similar antennas no taller than 6 feet with a maximum diameter of 2 inches.

B. Antennas designed to receive local television broadcast signals regardless of zone category.

C. Low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public right-of-

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way. Low-powered networked telecommunications facilities shall comply with this Chapter of the MZO.

D. Industrial, scientific, and medical equipment using frequencies regulated by the FCC.

E. Military, federal, state and local government communication towers used for navigational purposes, emergency preparedness, and public safety purposes.

F. Cell on Wheels (COW), which are permitted as temporary testing uses in nonresidential zones for a period not to exceed 14 days, or in residential zones for a period not to exceed one day, or during a period of emergency as declared by the City, County, or State.

G. A tower existing prior to the effective date of this Ordinance that was in compliance with the City's zoning regulations immediately prior to its effective date may continue as a non conforming structure. Any change to such a structure or facility shall be subject to review for compliance with all existing regulations.

15.11.070 – Maintenance. The following maintenance requirements apply to all facilities:

A. All graffiti on any components of the facility shall be removed promptly in accordance with County regulations. Graffiti on any facility in the public right-of-way must be removed within 48 hours of notification.

B. All landscaping shall be maintained at all times and shall be promptly replaced if not successful.

C. If a flagpole is used for camouflaging a facility, flags must be flown and must be properly maintained at all times.

D. All wireless telecommunications sites shall be kept clean and free of litter.

E. All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed contractor.

F. All towers shall maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code and all state and local regulations.

G. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.

15.11.080 – Certifications and Inspections.

A. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the Building Code and all other construction

standards set forth by the City and federal and state law including FCC and National Electric Safety Code regulations. Certification of continued compliance may be required by the City at reasonable intervals.

B. The City or its agents shall have authority to enter onto the property upon which a tower is located, to inspect the tower for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and federal and state law.

C. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. In the event such inspection results in a determination that violation of applicable construction and maintenance standards, set forth by the City has occurred, remedy of the violation may include cost recovery for all costs incurred in confirming and processing the violation.

15.11.090 – Abandonment or Discontinuation of Use. The following requirements apply to the abandonment and/or discontinuation of use for all facilities:

A. All operators who intend to abandon or discontinue the use of any wireless telecommunications facility shall notify the City of such intentions no less than 60 days prior to the final day of use.

B. Wireless telecommunications facilities with use discontinued shall be considered abandoned 90 days following the final day of use or operation.

C. All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.

D. The City reserves the right to remove any facilities that are abandoned for more than 90 days at the expense of the facility owner.

E. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good condition may remain.

F. To secure the obligation to remove abandoned facilities not co-located on a building, pole, or other service provider's tower, and return the site to its previous condition the applicant and/or owner shall post a performance bond. Performance bond shall be provided for the purpose of ensuring adequate removal of the tower upon termination of its use. The performance bond shall be equal to or greater than 150 % of the estimated cost of removal of the tower, but not less than $5,000. Proof of performance bonds shall be submitted prior to final permit approval. A change of use is subject to review.

15.11.100 Violation, Enforcement and Revocation. Failure to comply with any condition of approval or standard in this chapter shall be subject to enforcement and grounds for possible revocation of the permit, termination of the use and removal of the facility at the operator/owner's expense.

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TITLE 16
LAND DIVISIONS

CHAPTERS:

16.01	**General Provisions and Administration of Land Divisions**
16.02	**Minimum Improvements and Design Standards for Land Divisions**
16.03	**Subdivisions - Process and Standards**
16.04	**Partitions - Process and Standards**
16.05	**Property Line Adjustments and Abandonment - Process and Standards**

Chapter 16.01 - General Provisions and Adminisration of Land Divisions

Sections:

16.01.010	**Purpose**
16.01.020	**Scope and procedural overview**
16.01.030	**Definitions**
16.01.040	**Fees**
16.01.050	**Variances from dimensional requirements**
16.01.060	**Conditions of Land Division approval**
16.01.070	**Restrictions on advertising and sale of lots until process is complete**
16.01.080	**Duration of approval and extensions**
16.01.090	**Severability**
16.01.100	**Nuisance - violations and penalties**

16.01.010 Purpose. This Title is enacted in compliance with ORS 92.010 through 92.160 to establish procedures and standards for partitioning and subdividing land within the city. These regulations, along with the requirements of the city's underlying zoning, provide the dimensional requirements for building lots, streets, rights-of-way, locational requirements for houses on residential lots, the provision of adequate open space for recreation and community facilities, and the basic requirements for the installation of public utilities.

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

B. This title is adopted to help ensure a sufficient supply of needed housing and satisfactory living conditions in new subdivisions to comply with Statewide Planning Goal 10 and implementing administrative rules, guidelines and statutes.

C. This title is adopted to protect, conserve and plan for an appropriate use of land; to provide for the timely and efficient extension of public facilities and services without excessive expenditure of public funds in accordance with Statewide Planning Goals 11 and 14 and their implementing administrative rules and guidelines.

D. This title is adopted to protect property owners from excessive assessment for future utility installations and to provide a means of ensuring that property owners pay only their fair share of the cost of providing public facilities and services; and to increase consumer protection by assuring that only those lots which have met city requirements and have been lawfully created through subdivision or partition approval are allowed to be advertised for sale;

16.01.020 Scope and procedural overview. All forms of land division and adjustments to, or elimination of, property boundaries within the city shall be subject to the requirements of this Title.

A. Subdivisions and partitions that create an accessway are processed as Type III decisions as outlined in the Mosier Zoning Ordinance (Mosier City Code, Title 15) or, at the applicant's option may be processed as an expedited land division pursuant to state law. Generally, the city's Type III process involves mailed notice of all preliminary subdivision plat applications shall be provided to property owners within 100 feet of the subject property. The city planner makes an initial recommendation to the city council which holds a public hearing on the proposal. The city council's decision is appealable to the Land Board of Appeals pursuant to state law.

B. Partitions are processed as Type I decisions as outlined in the Mosier Zoning Ordinance or, at the applicant's option may be processed as an expedited land division pursuant to state law. Under the city's Type I process, the city planner renders a decision which is not appealable within the city.

16.01.030 Definitions.

A. Except as defined in this section, terms used in this title shall have their ordinary meanings. Where terms are ambiguous or subject to several possible meanings, the context of this title, the Mosier Zoning Ordinance and Comprehensive Plan shall dictate the most appropriate meaning.

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

1. "Accessway" means any public or private accessway that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land. Accessways include Arterials, Urban or Rural collectors, Local roads, Alleys, private access ways or

similar designations. "Pedestrian or bicycle accessway" mean any off-street path or way which is intended for the primary use of pedestrians or bicyclists and which provides direct routes within and from new subdivisions and planned developments to residential areas, retail store and office areas, transit streets and neighborhood activity centers where such route are not otherwise provided by the street system. Standards applicable to the various types of accessways are defined in this code.

2. "Alley" means a public or private access way not more than 20 feet wide affording only secondary means of access to abutting property.

3. "Applicant" means the party or parties who submit an application for any quasi-judicial permit provided for under this Title or the Mosier Zoning Ordinance. Where the application is approved, all rights granted and obligations imposed by this Title on an applicant apply equally to the applicant's successor(s) in interest and to any agents of the applicant or the applicant's successor(s) in interest.

4. "Application" means any request for approval of a permit or a legislative amendment to the city's land use regulations, comprehensive plan or related maps.

5. "Approval criteria" means all standards which must be met in order to approve an application. Depending upon the specific application, approval criteria include standards contained in the Mosier Zoning Ordinance, the Mosier Comprehensive Plan, applicable state law and any other applicable titles of the Mosier City Code or ordinance adopted by the City.

6. "Arterial" means a street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.

7. "Building line" means a line on a plat indicating the limit beyond which buildings or structures may not be erected on a lot.

8. "City" means the city of Mosier.

9. "City Planner" or "Planner" means the City Planner serving either as a consultant, on contract or as hired staff, or that person's designee as approved by the City Council.

10. "Code" means collectively, the Mosier Zoning Ordinance (Ordinance No. 136), this Ordinance, the Mosier Comprehensive Plan and any other ordinance, resolution or regulation adopted or administered by the City of Mosier that affects the use of land.

11. "Urban and Rural Collector" means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used to some extent for through traffic and to some extent for access to abutting properties. Functional

Classifications for existing roads are shown in Figure 5 of the Downtown and local Street network Plan (May 12, 2003)

12. "Cul-de-sac" (dead-end street) means a short street having one end open to traffic and being terminated by a vehicle turnaround.

13. "Decision Maker" means the city entity rendering a decision on an application. For applications made under this Title, the decision maker will be either the city planner or the city council.

14. "Direct," when used in connection with bicycle and pedestrian access, means the shortest practicable connection or access between two points, which in no instance should involve out-of-direct travel more than 50% longer than a straight line distance between two points.

15. "Drive way" means a private accessway serving not more than two dwelling units.

16. "Dwelling" and "Dwelling Unit" mean a residence for up to five unrelated people plus any number of people related by blood or marriage.

17. "Easement" means a grant of right to use a strip of land for specific purposes.

18. "Final action" and "final decision" mean the city's final decision on a permit application for which there is either no appeal to another decision maker within the city, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with this Title and MMC Chapter 15.07 – Administration and procedures. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision.

19. "Flag lot" means a lot or parcel that has a narrow frontage on a public street and a narrow Accessway which serves the main body of the lot used for building.

20. "Half street" means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

21. "Land Division" means any partition, subdivision, lot line adjustment or abandonment.

22. "Local Street" or "Local Road"means any street intended primarily for access to abutting properties.

23. "Lot" and "Legal Lot" mean a single unit of land created by a subdivision which, at the time of creation, complied with all procedural and substantive requirements of any applicable local, state or federal law.

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24. "Lot line adjustment" means the relocation of a common property line between two abutting properties which does not create a new lot or parcel.

25. "Mosier Zoning Ordinance" or "MZO" means Ordinance 100 as adopted and from time to time amended by the City Council.

26. "Map" means a final diagram, drawing or other writing concerning a partition.

27. "Nearby," when used in connection with bicycle and pedestrian access, means within one-quarter mile distance which can reasonably be expected to be used by pedestrians, and uses within two miles distance which can reasonably be expected to be used by bicyclists.

28. "Neighborhood activity center" refers to land uses which attract or are capable of attracting a greater than average level of pedestrian use. Neighborhood activity centers include, but are not limited to, parks, schools, retail store and service areas, shopping centers, recreational centers, meeting rooms, theaters, museums and other pedestrian-oriented uses.

29. "Non-final decision" means any decision by the city planner which is not a final decision because it is appealable to another decision maker within the city.

30. "Parcel" and "Legal Parcel" mean a single unit of land created by a partition which, at the time of creation, complied with all procedural and substantive requirements of any applicable local, state or federal law.

31. "Partition" means either an act of partitioning land or an area or tract of land partitioned.

32. "Partition land" means to divide land into two or three parcels of land within a calendar year without the concurrent creation of an accessway, but does not include:

    a. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

    b. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning title or ordinance; or

    c. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the Mosier Comprehensive Plan and applicable state statutes. However, any property divided by the sale or grant of property for state highway, county

road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

33. "Partition plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

34. "Pedestrian way" means a right-of-way for pedestrians and not vehicular traffic.

35. "Permit" means any form of quasi-judicial approval relating to the use of land rendered by the city under this Title or the MZO, including subdivisions, partitions, lot line adjustments and abandonments, zone changes, plan amendments, conditional use permits, nonconforming use verifications, land use and limited land use decisions, and expedited land divisions. Permit does not include any city decision relating to system development charges.

36. "Plat" includes a final subdivision plat, replat or partition plat.

37. "Preliminary Plan" means a preliminary subdivision plat or partition plat as appropriate.

38. "Private Street" means a private accessway created by easement which serves more than two parcels and which is designed to public street standards unless a modification of these standards has been accepted by city engineer.

39. "Property line" means the division line or boundary between two legal lots or parcels.

40. "Record" means the public record compiled for each quasi-judicial and legislative action and includes the written minutes of all public meetings, audio tape recordings, if any, of public meetings, the application and all materials submitted by the applicant, all documents, evidence, letters and other materials submitted by any party to the decision making proceeding, staff reports, public notices, and all decisions rendered by city decision makers.

41. "Replat" means the act of platting the lots, parcels or easements in an already recorded subdivision or partition plat to achieve a reconfiguration of the existing plat or to change the number of lots in the plat.

42. "Reserve strip" means a parcel of land, usually one foot in width, running the length of a half-street along the center line or running across the end of a street at right angles to the center line which, when deeded to the city, prevents the abutting property owner from using the street for access to develop the abutting property without first making the appropriate dedication from his/her land.

43. "Reversed corner lot" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

44. "Right-of-way" means the area between boundary lines of a street, alley or other easement.

45. "Series Partition" means a series of partitions of land resulting in the creation of 4 or more parcels in more than one calendar year.

46. "Subdivide" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. Subdivide also means to divide an area or tract of land into three or fewer lots or parcels along with the concurrent creation of an accessway. Divisions of three or few lots or parcels without the concurrent creation of an accessway is a partition.

47. "Subdivider" means any person who undertakes the subdividing of a parcel of land, including changes in street or lot lines, for the purpose of transfer of ownership or development.

48. "Subdivision" means either an act of subdividing land or an area or tract of land into four or more parcels within a calendar year.

49. "Subdivision plat" includes a final map or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

50. "Subject property" means the real property or properties that is/are the subject of a permit application.

51. "Through lot" means a lot having frontage on two parallel or approximately parallel streets other than alleys.

52. "Transit stop" means any posted bus or other mass transit stop.

16.01.040 Fees.

A. Filing Fees. The city council shall establish by resolution, and amend from time to time, a schedule of fees for all applications and appeals provided for under this Title and the Mosier Zoning Ordinance. All fees or deposits so authorized shall be paid in full at the time of application, along with all other required information and documents, in order for the application to be deemed complete.

B. Technical Plan Check and Inspection Fees. The city council shall establish by resolution a plan check and inspection fee which shall be a percentage of the actual construction costs of roads, water, sewer and storm drainage facilities. This fee shall be paid to cover the city's costs of reviewing plans and inspecting public improvements.

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C. Other Fees. The fees required by this chapter are in addition to any other fees charged by the city and any other governmental entity with regulatory jurisdiction.

16.01.050 Variances from dimensional requirements. The dimensional requirements for lots and public improvements created through the various methods provided for under this Title are specified in Chapter 16.02, sections in the Mosier Zoning Ordinance corresponding to the underlying zoning, and in regulations pertaining to any other special site constraints which the City may from time to time adopt, *e.g.*, limitations on development on unstable slopes, in wetlands, etc. Any variation from these dimensional requirements must be specifically requested by the applicant and shall be subject to the approval standards for variances in MMC Chapter 15.04 and a Type III process under MMC Chapter 15.07. Ideally applicants will specifically request all necessary variances as part of a consolidated application. However, if the applicant requests a variance after the commencement of the approval process for a land division under this Title, the applicant shall have the option of having the variance and land division consolidated and subject to a Type III process or allowing the applications to proceed separately under their respective procedures.

16.01.060 Conditions of Land Division approval. The decision maker may impose reasonable conditions of approval on any approval granted under this Title to ensure that the application meets, or will meet, any applicable approval standard.

16.01.070 Restrictions on advertising and sale of lots until process is complete.

A. No person shall advertise or negotiate to sell any lot in a subdivision until a preliminary plat has been approved pursuant to this Title.

B. No person shall complete the sale of any lot in any subdivision until the final subdivision plat for the development has been approved under this Title and recorded with the county.

C. Parcels subject to the partition process under this Title may be advertised, and sales negotiated, prior to preliminary partition plat approval; however, no sale of any such lot may be completed until the city has granted final partition approval under this Title.

16.01.080 Duration of approval and extensions.

A. Duration. Any approval granted under this Title shall be valid for 12 months following the date of the city's final decision of approval. If the applicant has not vested its right to develop under an approval granted pursuant to this Title within this 12-month period, the approval shall expire automatically and be void without any further action by the city. To vest its right to develop pursuant to any approval granted under this Title, the applicant must obtain any final plat approval required by this Title and record the plat with the County.

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B. Extensions. Any approval granted pursuant to this Title may be extended beyond the 12-month period provided in subsection A. To extend an approval, the applicant must request an extension by applying to the city planner prior to the expiration of the 12-month period. The city planner may extend the expiration period for a maximum of two 6-month periods upon the applicant's showing good cause as to why the land division process has not been completed within the 12-month period that is otherwise required.

16.01.090 Severability. If any part of this Title is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that part shall be deemed separate from the balance of the Title and the invalidation of any part of this Title shall not affect the validity nor the enforceability of any of the remaining portions of the Title.

16.01.100 Nuisance - violations and penalties. Any act, omission or use of property in violation of the requirements of this Title shall constitute a nuisance and a civil infraction subject to the enforcement provisions of the Mosier Civil Enforcement Chapter.

Chapter16.02 - Minimum Improvements and Design Standards for Land Divisions

Sections:

16.02.010	**Purpose and general provisions**
16.02.020	**Street design - generally**
16.02.030	**Street design – transportation facility design and construction standards**
16.02.040	**Street design - reserve strips**
16.02.050	**Street design - alignment**
16.02.060	**Street design - extensions**
16.02.070	**Street design - intersection angles**
16.02.080	**Street design - additional right-of-way**
16.02.090	**Street design - half street**
16.02.100	**Street design - cul-de-sac**
16.02.110	**Street design - street names**
16.02.120	**Street design - grades and curves**
16.02.130	**Street design - railroad right-of-way**
16.02.140	**Street design - access control**
16.02.150	**Street design - pedestrian and bicycle safety**
16.02.160	**Street design - alleys**
16.02.170	**Street design - transit**
16.02.180	**Blocks - generally**
16.02.190	**Blocks - length**
16.02.200	**Blocks - width**
16.02.210	**Blocks - pedestrian and bicycle access**
16.02.220	**Building sites**
16.02.230	**Building site - access**
16.02.240	**Building site - through lots**
16.02.250	**Building site - lot and parcel side lines**
16.02.260	**Building site - solar access**
16.02.270	**Building site - grading**
16.02.280	**Building site - building lines**
16.02.390	**Building site - division of lots**
16.02.300	**Building site - protection of trees**
16.02.310	**Land for public purposes**
16.02.320	**Easements**
16.02.330	**Minimum improvements - procedures**
16.02.340	**Minimum improvements - public facilities and services**
16.02.350	**Minimum improvements - road standards and requirements**

16.02.010 Purpose and general provisions. All land divisions shall be in conformance with the design standards established by this chapter and with applicable standards in the city's

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public facility master plan and public works design standards. In reviewing applications for land divisions, the decision maker shall take into consideration any approved land divisions and the remaining development potential of adjacent properties. All street, water, sanitary sewer, storm drainage and utility plans associated with any land division must be reviewed and approved by the city engineer prior to construction.

16.02.020 Street design - generally. The location, width and grade of streets shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. Streets shall connect to all existing or approved stub streets which abut the development site where deemed feasible and desireable to make the connection. The arrangement of streets shall either:

A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels; or

B. Conform to a plan for the area approved or adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

16.02.030 – Transportation Facility Design And Construction Standards. Road design and construction standards is to ensure that future new or improved roads are built to a consistent and adequate standard to provide an adequate life for the facility, minimize operation and maintenance costs, and meet safety, mobility and connectivity needs. New roads or those where major road improvements are undertaken will meet the standards described below and illustrated in the figures referenced in the following subsections.

Unless otherwise required by the decision maker, all accessways proposed as part of a subdivision or partition that involves the creation of an accessway shall comply with the following standards:

A. Standards shall vary by classification. Classifications for existing roads are shown in Figure 5 of the Downtown and local Street network Plan (May 12, 2003).

B. Design standards for right-of-way, pavement width, shoulders, sidewalks, planting strips and other required features are prescribed in the following table.

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Road Design Standards

Right-of-way	Pavement width	Parking		Planting Strip	Sidewalks/multi-use path	Drainage swale
Arterials						
60'	24'	None	4', both sides	4', both sides	6-10', one or both sides	Optional
Urban Collectors [1]						
60' [3]	36'	7', both sides [4]	None	None	10', both sides [5]	None
Rural Collectors [2]						
60' [3]	36'	None	6', both sides	None	None	12', both sides
Local Roads						
50' – 60'	22'	None	None	None	None	10', both sides
Alleys						
20'	16'	None	2', both sides	None	None	None

Notes:

1. Applies to future reconstruction of Washington or 3rd Streets.
2. Applies to future reconstruction of Rock Creek Road, Huskey or State Streets.
3. May vary, depending on existing conditions.
4. May eliminate on one or both sides if right-of-way is insufficient.
5. May reduce to 5' if right-of-way is insufficient to accommodate a full standard.

C. Construction standards for new or reconstructed roads shall meet the standards prescribed in subsection B above.

D. Maximum block and cul-de-sac length. The maximum block and cul-de-sac length for local roads in new subdivisions or other residential developments shall be the length deemed appropriate, by the City engineer in consultation with the City Planner, to provide:

1. Safe spacing between intersections
2. Adequate access for fire equipment
3. Efficient provision of utilities

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4. Adequate access for road maintenance

E. Where site conditions, particularly topography, size and shape of the tract, or some feature worthy of protection, make it impractical to otherwise provide buildable sites, the decision maker may apply the constrained local street standard, which ordinarily shall not have a right of way narrower than 40 feet and a pavement width narrower than 20 feet. If necessary, decision maker may require the applicant to provide slope easements where topography or other conditions so require.

F. The decision maker may allow the creation of private streets, also refered to as private accessways, that shall be maintained by the applicant or a home owner's association. Where private streets are proposed, the applicant shall submit for city review the proposed covenants, conditions and restrictions that create and organize the home owners association. Any variance to private street standards, determined to be necessary and acceptable by the city engineer, shall allow equipment access adequate to allow impacted service providers to protect public life and safety. Approval of alternate standards shall be based on city engineer's recommendation including input from impacted service providers when available.

G. Bicycle and multi-use path design and construction standards. In urban areas, a paved width of 10-12 feet is recommended for multi-use bicycle/pedestrian paths. Where topography, land availability or other conditions do not allow for this, narrower trails can be constructed, particularly if they are intended for pedestrians only. A minimum width of three to four feet shall be required for pedestrian trails. If the trail is to be used regularly at night, pedestrian scale lighting is recommended for security and safety.

16.02.040 Street design - reserve strips. The decision maker may require the dedication of reserve strips to control access to streets when recommended by the city engineer to protect public safety and welfare. When so required, the applicant shall deed a 1 foot reserve strip to the public for future street purposes.

16.02.050 Street design - alignment. As far as is practicable, streets other than local or constrained streets shall be aligned with existing streets by continuation of the center lines. For local streets, staggered street alignment resulting in "T" intersections shall, wherever practicable, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and, in no case, shall be less than 100 feet. For collectors and arterials, the minimum distance between local streets intersecting the collector or arterial shall be 500 feet between center lines, provided, however, that the decision maker may approve a lesser distance upon findings that such lesser distance will not pose a safety hazard.

16.02.060 Street design - extensions. Where necessary to give access to or permit a satisfactory future partition of adjoining land, streets shall be extended to the boundary of the land division and the resulting deadend street (stub) may be approved with a temporary

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turnaround as approved by the city engineer. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

16.02.070 Street design - intersection angles. Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. However, in no case shall the acute angles be less than 80 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of 25 feet for local streets. Larger radii shall be required for higher street classifications as determined by the city engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, the intersection of more than two streets at any one point will not be approved.

16.02.080 Street design - additional right-of-way. During consideration of the preliminary plan for a subdivision or partition, the decision maker shall determine whether existing streets adjacent to or within the tract meet the city's applicable planned minimum design or dimensional requirements. Where such streets fail to meet these requirements, the decision maker shall require dedication of additional right-of-way sufficient to achieve conformance with code standards, which dedication shall be shown on the final plat. Where streets fail to meet city design or dimensional standards, the decision maker may require the applicant to make any improvements necessary to achieve the applicable planned city standards.

16.02.090 Street design - half street. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the land division when it is in conformance with all other applicable requirements. When approving half streets, the decision maker must first determine that it will be practical to require the dedication of the other half when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant must provide an additional 10 feet of pavement width so as to make the half street safe and usable until such time as the other half is constructed. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reverse strips and street plugs may be required to preserve the objectives of half streets.

16.02.100 Street design - cul-de-sac. Cul-de-sacs and permanent dead-end streets shall be discouraged except where construction of a through street is found by the decision maker to be impracticable due to topography; other significant physical constraints such as unstable soils, wetlands, natural or historic resource areas, or dedicated open space; existing development patterns; or arterial access restrictions. Where feasible, dead end or cul-de-sac length shall be limited to 350 feet. Longer dead-end streets may be approved only where:

A. Looping is demonstrated, by the applicant, to be infeasible due to topographic constraints, environmental or cultural resources, etc. and

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B. The city engineer, having consulted with fire and life safety representatives, determines that acceptance of a dead end street in excess of 350 feet is necessary to allow reasonable access to land that would be otherwise inaccessible and that provision of a dead end street length in excess of 350 feet can provide sufficient fire and life safety access. Additional conditions, such as a requirement that all dwellings accessed by the dead end road be equipped with NFPA residential sprinkler systems, may be applied.

16.02.110 Street design - street names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names shall conform to the established pattern in the city and shall be subject to the approval of the city engineer.

16.02.120 Street design - grades and curves. The maximum grade for new public roads will be 12%. The maximum recommended grade is 10%. Center line radii of curves shall not be less than 200 feet on arterials or 100 feet on other streets. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the city engineer may accept steeper grades up to 15% and sharper curves. Additional conditions, such as a requirement that all dwellings accessed by a road grade exceeding 10-12% be equipped with NFPA residential sprinkler systems, may be applied if it is determined through consultaion with fire and life safety responders that approval of the steeper grade may reasonably be expected to increase response time for fire protection personell. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least one-half percent.

16.02.130 Street design - railroad right-of-way. Wherever the proposed subdivision or partition contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

16.02.140 Street design - access control. Where a land division abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; reverse frontage lots with suitable depth; screen planting or wall contained in a nonaccess reservation along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of through and local traffic.

16.02.150 Street design--Pedestrian and bicycle safety. Where deemed necessary to insure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, the decision maker may require that local streets be so designed as to discourage their use by non-local automobile traffic.

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16.02.160 Street design - alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision maker. The corners of alley intersections shall have a radius of not less than 10 feet. Alleys also may be permitted in residential districts.

16.02.170 Street design - transit. Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. Pedestrian/bicycle accessways shall be provided as necessary. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the subdivision has been identified.

16.02.180 Blocks - generally. The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.

16.02.190 Blocks - length. Block lengths for local streets and collectors shall not exceed 600 feet between through streets, measured along the nearside right-of-way line of the through street. The maximum perimeter of the blocks formed by local streets shall not exceed 1,800 feet between through streets, except where precluded by topography or other physical constraint or by existing development patterns.

16.02.200 Blocks - width. Except for reverse frontage lots, the width of blocks shall ordinarily be sufficient to allow for two tiers of lots of depths consistent with the type of land use proposed.

16.02.210 Blocks - pedestrian and bicycle access.

A. To facilitate the most practicable and direct pedestrian and bicycle connections to adjoining or nearby neighborhood activity centers, public rights-of-way and pedestrian/bicycle accessways which minimizing out-of-direction travel, subdivisions shall include pedestrian/bicycle accessways between discontinuous street right-of-way, where a new street is not practicable; through excessively long blocks at intervals not exceeding 500 feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

B. Pedestrian/bicycle accessways shall be provided:

1. To provide direct access to nearby neighborhood activity centers, transit streets and other transit facilities;

2. Where practicable, to provide direct access to other adjacent developments and to adjacent undeveloped property likely to be subdivided or otherwise developed in the future;

3. To provide direct connections from cul-de-sacs and internal private drives to the nearest available street or neighborhood activity center;

4. To provide connections from cul-de-sacs or local streets to arterial or connector streets.

C. An exception may be made where the decision maker determines that construction of a separate accessway is not feasible due to physical or jurisdictional constraints. such evidence may include but is not limited to:

1. That other federal, state or local requirements prevent construction of an accessway;

2. That the nature of abutting existing development makes construction of an accessway impracticable;

3. That the accessway would cross an area affected by an overlay district in a manner incompatible with the purposes of the overlay district;

4. That the accessway would cross topography consisting predominantly of slopes over 25%;

5. That the accessway would terminate at the urban growth boundary and extension to another public right-of-way is not part of an adopted plan.

16.02.220 Building sites. The size, width, shape and orientation of building sites shall be appropriate for the location of the land division, and shall be consistent with the residential lot size provisions of the zoning title or ordinance with the following exceptions:

A. Where property is zoned and planned for commercial or industrial use, the decision maker may approve other widths in order to carry out the city's comprehensive plan. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

B. Minimum lot sizes contained in the MZO are not affected by those provided herein.

16.02.230 Building site - access. Each lot in a subdivision shall abut a street, other than an alley, or a cul de sac for a frontage length of at least 30 feet.

16.02.240 Building site - through lots. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic

arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A non-vehicular access strip and/or a planting screen easement across which there shall be no right of access may be required along the line of building sites abutting such a traffic artery or other incompatible use.

16.02.250 Building site - lot and parcel side lines. The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

16.02.260 Building site - solar access. The lines of lots and parcels, as far as is practical, shall be oriented to allow structures constructed on the lots or parcels to utilize solar energy by establishing the long axis in the east-west direction permitting sunlight access three hours before and after solar noon. Easements necessary to assure solar access may be required for land division approval.

16.02.270 Building site - grading. Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 29, Appendix Chapter 70 of the Uniform Building Code and shall implement appropriate erosion and sediment control measures, such as those provided in the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual (2000 edition or as subsequently amended). In any event, grading plans shall be subject to review and approval by the city engineer.

16.02.280 Building site - building lines. Any special building setback lines established in a subdivision or partition shall be shown on the preliminary and final plats.

16.02.290 Building site - division of lots. Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this chapter, the decision maker shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future right-of-way or building sites.

16.02.300 Building site - protection of trees. Site planning, including the siting of structures, roadways and utility easements, shall provide for the protection of tree resources. Trees 6 inch caliper or greater measured 4 feet from ground level shall be preserved wherever practicable outside the building area. Where the decision maker determines it is impracticable or unsafe to preserve these trees, the applicant may be allowed to remove the trees so long as they are replaced in accordance with an approved landscape plan that includes new plantings in accordance with specifications as to size, location, and number of replacement trees to be planted. Specifications shall be developed by the City with input from the applicant's qualified arborist or horticulturalist. The decision maker may also impose conditions to avoid disturbance to tree roots by grading activities and to protect trees and other significant vegetation identified for retention. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/ management program, which may include provisions for irrigation for the first several growing seasons, to protect the remaining and/or support replacement trees.

16.02.310 Land for public purposes. If the city has an interest in acquiring a portion of a proposed land division for a public purpose, or if the city has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the decision maker may require that those portions of the land division be reserved for public acquisition for a period not to exceed two years.

16.02.320 Easements. The following shall govern the location, improvement and layout of easements:

A. Utilities. Utility easements shall be provided 10 feet in width along rear and front property lines and 5 feet in width along side property lines where deemed necessary by the city engineer. Insofar as practicable, easements shall be continuous and aligned from block to block within the land division and with adjoining subdivisions or partitions. Specific utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans.

B. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage canals or pond areas shall be of such width as the responsible agency determines is adequate for the purpose, including any necessary maintenance roads. These shall be shown upon the final plat or map, and, if necessary, fully designated upon an additional map.

C. Watercourses. Where a land division is traversed or bounded by a watercourse, drainage way, channel or stream, a storm water easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainage way, channel or stream, and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, stream back easements may be required for pedestrian or bicycle paths.

D. Access. When easements are used to provide vehicular access to lots within a land division, the construction standards, but not width standards, for the easement shall meet city specifications. The minimum width of the easement shall be 20 feet. The easements shall be installed by the applicant and inspected by the city engineer. Such easements may also be used for utility placement.

E. Resource Protection. Easements or other protective measures may also be required as the decision maker deems necessary to ensure compliance with applicable review criteria protecting wetlands, streams, historic structures and similar resources.

16.02.330 Minimum improvements - procedures. In addition to other requirements, improvements installed by the applicant either as a requirement of these or other regulations or at the applicant's option, shall conform to the requirements of this Title and be designed to city

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specifications and standards as set out in the city's facility master plan and public works design standards. The improvements shall be installed in accordance with the following procedure:

A. Improvement work shall not commence until plans have been checked for adequacy and approved by the city engineer. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.

B. Improvements shall be constructed under the inspection and approval of the city engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the city engineer or other city decision maker, the applicant's 's project engineer also shall inspect construction.

C. Where erosion control or resource protection facilities or measures are required, such measures shall be installed prior to any grading or other development or site alteration of the property. Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to the lot lines.

D. A 2-year warranty bond or letter of credit in the amount of 5-10% of the cost of the dedicated infrastructure must be provided prior to receiving final plat approval. Such financial assurance must be reviewed by the city attorney to ensure the city's interests are sufficiently protected prior to acceptance.

E. A detailed map showing public improvements as built shall be filed with the city engineer upon completion of the improvements. As built drawings shall be provided in electronic form in .pdf format, or an alternate electronic format deemed acceptable by the city engineer and in hard copy form as a full size drawing set on mylar.

F. The decision maker may regulate the hours of construction to minimize adverse impacts on adjoining residences or neighborhoods.

16.02.340 Minimum improvements - public facilities and services. The following minimum improvements shall be required of all applicants for a land division under this Title, unless the decision maker determines that any such improvement is not proportional to the impact imposed on the city's public systems and facilities:

A. Transportation System. Subdivision applicants shall be responsible for improving to the city's planned level of service all public streets, including alleys, within the land division and those portions of public streets adjacent to but only partially within the land division. All applicants shall execute an agreement to not remonstrate against the formation of a Local Improvement District for street improvements that benefit the applicant's property. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to

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their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points or curvature and points of tangency of their center line, and at such other points as directed by the city engineer.

B. Storm Water Drainage System. Drainage facilities shall be provided within land divisions and shall connect the applicant's drainage system to the public storm drainage system if one is available. All applicants shall execute an agreement to not remonstrate against the formation of a Local Improvement District for storm water drainage improvements that benefit the applicant's property. Applicants are responsible for extending the city's storm drainage system to the development site and for providing for the connection of up-gradient properties to that system. The applicant shall design its drainage facilities and erosion control measures in accordance with the city drainage master plan and shall implement erosion and sedimentation control measures such as those provided in the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual (2000 edition or as subsequently amended). Storm water plans for a development site shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the property and to allow extension of the city's system to serve these areas. Where a city storm water system is not available, storm water shall be detained on site and released at no more than predevelopment rates and volumes of discharge from the site. The applicant shall be responsible for ensuring that waters draining from the development meet the applicable water qualify standards established by the Oregon Department of Environmental Quality, Wasco County, and the City of Mosier. Final design shall be reviewed and approved by the city engineer before construction begins.

C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a land division and to connect those lots or parcels to the city's sanitary sewer system. All applicants shall execute an agreement to not remonstrate against the formation of a Local Improvement District for sanitary sewer improvements that benefit the applicant's property. Applicants are responsible for extending the city's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the city engineer before construction is begun.

D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a land division and to connect those lots or parcels to the city's water system. All applicants shall execute an agreement to not remonstrate against the formation of a Local Improvement District for water improvements that benefit the applicant's property. Applicants are responsible for extending the city's water system to the development site and

through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.

E. Sidewalks. The applicant shall provide for sidewalks on both sides of all public streets and in any special pedestrian way within the land division if required by the city to do so. The city may require alternate bicycle and pedestrian access ways which eliminate or replace the need for sidewalks. If sidewalks are required, the decision maker may require the applicant to provide sidewalks concurrent with the issuance of the initial building permit within the area that is the subject of the land division application. Applicants for partitions may be allowed to meet this requirement by executing an agreement to not remonstrate against the formation of a Local Improvement District for sidewalk improvements that benefit the applicant's property.

F. Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the decision maker may require the installation of separate bicycle lanes within streets and separate bicycle paths.

G. Street Name Signs and Traffic Control Devices. The applicant shall install street name signs at all street intersections. The applicant shall install traffic control devices as directed by the city engineer. Street name signs and traffic control devices shall be in conformance with all applicable city regulations.

H. Street Lights. The applicant shall install street lights, which shall be served from an underground source of supply. Street lights shall be in conformance with all city regulations, including those in Chapter 8.30 of MMC.

I. Bench Marks. At least one bench mark shall be located within the subdivision boundaries using datum plane specified by the city engineer.

J. Other. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.

K. Oversizing of Facilities. All facilities and improvements shall be designed to city standards as set out in the Mosier City Code, the city's facility master plan, public works design standards, or other city ordinances or regulations. Compliance with facility design standards shall be addressed during final engineering. The city may require oversizing of facilities to meet standards in the city's facility master plan or to allow for orderly and efficient development. Where oversizing is required, the applicant may request reimbursement from the city for oversizing based on the city's reimbursement policy and funds availability, or provide for recovery of costs from intervening properties as they develop.

L. Erosion Control Plan--Mitigation. Applicants shall implement appropriate erosion and sedimentation control measures such as those provided in the Clackamas County

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Erosion Prevention and Sediment Control Planning and Design Manual (2000 edition or as subsequently amended) and use best management practices to control erosion. An erosion control plan shall be reviewed and approved by the city engineer before any construction is begun.

16.02.350 Minimum improvements - road standards and requirements.

A. Subdivision applicants may propose private streets so long as the design for all accessways are reviewed and approved by the city engineer as being adequate for fire and life safety access.

B. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions. However, the decision maker may approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions or partitions where any of the following conditions exist:

1. The establishment of the public street is initiated by the city council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;

2. The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.

C. In those cases where approval of a public street is to be without full compliance with the regulations applicable to subdivisions or partitions, a copy of a preliminary plan and the proposed deed shall be submitted to the city planner and city engineer at least 10 days prior to any public hearing scheduled for the matter. The plan, deed and any other information the applicant may submit shall be reviewed by the decision maker and, if not in conflict with the standards of this Title, the MZO or any other applicable requirements, may be approved with appropriate conditions.

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Chapter16.03- Subdivisions – Process and Standards

Sections:

16.03.010 Purpose and general provisions
16.03.020 Preapplication conference required
16.03.030 Preliminary Subdivision Plat Application.
16.03.040 Preliminary Subdivision Plat - required plans.
16.03.050 Preliminary Subdivision plat - narrative statement.
16.03.060 Preliminary Subdivision plat - tabular information.
16.03.070 Notice and Invitation to Comment
16.03.080 Preliminary Subdivision plat - approval standards
16.03.090 Hearing, Decision and Appeal
16.03.100 Final subdivision plat - application requirements and approval standards
16.03.110 Filing and recording of Final Subdivision Plat
16.03.120 Post-approval modifications to approved plat

16.03.010 Purpose and general provisions.

A. Applicability. This chapter controls the process and approval standards applicable to subdivisions and partitions that involve the creation of an accessway. These applications shall follow a Type III process. Where the applicant opts to process either application as an expedited land division, the city will follow the decision making process set forth in state law and apply the applicable approval standards set forth in this code and elsewhere. Application for condominium projects, though not subject to subdivision platting procedures, is subject to all applicable development standards through the Site Plan Review process in MMC Chapter 15.06.

B. Purpose. The purpose of this chapter is to provide a quick review and decision making process, applying relatively clear and objective criteria with little discretion, but with little opportunity to deviate from the city's dimensional standards. For example, any deviation from the dimensional standards that apply requires a variance and a more elaborate decision making process that involves a mandatory hearing. Also, subdivision applications are not eligible for any density transfer or credit for undevelopable portions of the property, such as for wetlands or unbuildable steep slopes. If an applicant wishes greater flexibility in lotting pattern or lay-out, or relief from dimensional or public improvement standards the appropriate procedure would be an application for a variance under MMC Chapter 15.04.

C. Process Overview. Subdivisions require a 2-step process: preliminary and final subdivision plats. The preliminary plat, reviewed through a Type III process, provides all of the essential information about the proposal, including lay-out, number and pattern of lots, location of all existing structures and improvements, significant natural features, development schedule and any other information about the proposed development. The final plat is a formal

reproduction of the approved preliminary plat, including all conditions imposed by the decision maker, submitted in a recordable form. So long as the final plat does not deviate from the product approved in the preliminary plat, the city's review of the final plat is conducted as a Type I process.

16.03.020 Preapplication conference required. Before the city will accept a subdivision application, the applicant must attend a preapplication conference under MMC Section 15.07.030.

16.03.030 Preliminary subdivision plat application. At any time following a preapplication conference, an applicant may apply for Preliminary Subdivision Plat approval. The applicant's submission must provide a complete description of existing conditions, the proposed subdivision and an explanation of how the application meets all applicable approval standards. The following sections describe the specific submission requirements for a Preliminary Subdivision Plat, which include plan drawings, a narrative statement and certain tabular information.

Once staff determines the application is complete enough to process, notice of the application and an invitation to comment will be provided in accordance with MMC Chapter 15.07, the city planner will evaluate the application, taking into consideration all relevant, timely filed comments, and render a written decision also in accordance with MMC Chapter 15.07. The city planner's decision may be appealed to the city council as provided in MMC Section 15.07.015. Any decision by the city council is the city's final decision.

16.03.040 Preliminary Subdivision Plat - required plans. The Preliminary Subdivision Plat shall specifically and clearly show the following features and information on the maps, drawings, application form or attachments. All maps and site drawings shall be at a minimum scale of one inch to 50 feet.

A. Site Plan: A detailed site development plan showing the location and dimensions of lots, streets, walkways, common areas, building envelopes and setbacks, all existing and proposed utilities and improvements including sanitary sewer, storm water and water facilities, and an indication of existing and proposed land uses for the site.

B. Traffic/Transportation Plan: The applicant's traffic/transportation information shall include two elements: (1) A detailed site circulation plan showing proposed vehicular, bicycle and pedestrian access points and circulation patterns, parking and loading areas and any other transportation facilities in relation to the features illustrated on the site plan, and (2) A traffic impact study prepared by a qualified Professional Engineer, certified in Traffic Engineering, that assesses the traffic impacts of the proposed development on the existing transportation system and analyzes the adequacy of the proposed internal transportation network to handle the anticipated traffic and the adequacy of the existing system to accommodate the traffic from the proposed development.

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C. Natural Features Plan: The applicant shall submit a map illustrating all of the natural features and hazards on the subject property and within 250 feet of the property's boundary. Features that must be illustrated shall include the following: Proposed and existing street right of ways and all other transportation facilities, all proposed lots and tracts, all trees with a width 6 inches or greater measured 4 feet from the ground, all jurisdictional wetlands (according to the Corps of Engineers Wetlands Delineation Manual, January 1987 edition), all known geologic hazards, landslides or faults, areas with a water table within 1 foot of the surface, the location of any state or federal threatened or endangered species, all historic areas or cultural features acknowledged as such on any federal, state or city inventory, all wildlife habitat or other natural features listed on any of the city's official inventories.

D. Topography, Preliminary Grading and Drainage Plan: The applicant shall submit a plan illustrating the topography and grade of the site before and after development. Illustrated features must include the approximate grades and radius of curves of all proposed streets and cul-de-sacs, the location and calculated volume of all cuts and fills, and all storm water management features. This plan shall identify the location of drainage patterns and courses on the site and within 100 feet of the property boundaries.

E. Erosion Control Plan: The applicant shall submit an erosion control plan illustrating the measures that will be implemented throughout construction of the subdivision to Control erosion and sedimentation. This plan shall include appropriate measures such as those provided in the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual (2000 edition or as subsequently amended), use best management practices and be reviewed and approved by the city engineer prior to beginning work.

16.03.050 Preliminary Subdivision Plat - narrative statement. In addition to the plans required in the previous section, the applicant shall also prepare and submit a narrative statement that addresses the following issues:

A. Subdivision Description: A detailed description of the proposed development, including a description of any phasing, proposed uses, number and type of residential units, allocation and ownership of all lots, tracts, streets, and public improvements, the structure of any home owner's association, and each instance where the proposed subdivision will vary from some dimensional or other requirement of the underlying zoning district.

B. Timely Provision of Public Services and Facilities: The applicant shall explain in detail how and when each of the following public services or facilities will be adequate to serve the proposed development by the time construction begins:

1. Water
2. Sanitary Sewer
3. Storm Sewer and Storm Water Drainage
4. Parks and recreation
5. Traffic and transportation

Where adequate capacity for any of these public facilities and services is not demonstrated to be currently available, the applicant shall describe how adequate capacity in these services and facilities will be financed and construction before the issuance of occupancy permits.

C. Approval criteria and justification for variances: The applicant shall explain how the proposed subdivision is consistent with the standards set forth in Chapter 16.02 and any other applicable approval standard identified by city planner. For each instance where the applicant proposes a variance from some applicable dimensional or other numeric requirement, the applicant shall address the variance approval criteria in MMC Chapter 15.04.

D. Geologic Hazards: For property subject to known geologic hazards, the applicant shall submit a report prepared by a qualified Professional Engineer, certified in geology or geotechnical engineering, describing how the proposed subdivision is feasible and protects public health safety and welfare.

E. Water Resources: For property known to have wetlands or other surface water features, the applicant shall submit a report prepared by a qualified professional which shall explain in detail how the proposed subdivision is feasible without posing a threat to known water resources.

F. Drafts of the proposed covenants, conditions and restrictions (CC&Rs), maintenance agreements, property owners association agreements, dedications, deeds, easements, or reservations of public open spaces not dedicated to the city, and related documents for the subdivision.

16.03.060 Preliminary Subdivision Plat - tabular information. In addition to the plans required in the previous section, the applicant shall also prepare and submit one or several tables that sets forth the following information in an understandable format, including explanations where needed:

A. Total number of acres, acreage distribution by use, percentage of acreage designated for each dwelling type and for nonresidential uses such as streets, off-street parking, parks, open space and playgrounds.

B. A description of any proposed phasing, including for each phase the timing, acreage, number of residential units, amount of area for non-residential use, open space, development of utilities and public facilities.

C. Overall density of the subdivision and the density by dwelling type for each.

16.03.070 Notice and Invitation to Comment. Upon the city's determination that an application for a preliminary submission plat is complete, pursuant to MMC Section 15.07.070,

the city shall provide notice of the application in accordance with the requirements of MMC Chapter 15.07 applicable to Type III decisions.

16.03.080 Preliminary Subdivision Plat - approval standards. The minimum approval standards that must be met by all preliminary subdivision plats are set forth in this Title, and in the dimensional and use requirements set forth in the section of MMC Chapter 15.02 that corresponds to the underlying zone. The city planner shall evaluate the application and make a recommendation as to whether the proposal meets, or through the imposition of conditions of approval can meet, these approval standards. The city planner's recommendation shall be issued as a staff report to the city council and made public at least 7 days prior to the scheduled public hearing.

16.03.090 Hearing, Decision and Appeal. The city council hearing on the proposed subdivision plat shall follow the Type III process set forth in MMC Chapter 15.07, after which the city council shall issue a written decision. Any appeal of the city council's decision shall be to the Land Use Board of Appeals pursuant to state law.

16.03.100 Final subdivision plat - application requirements and approval standards. The applicant must apply for Final Subdivision Plat approval within 12 months following approval of a Preliminary Subdivision Plat. The Final Subdivision Plat is processed as a Type I decision by the city planner so long as the Final Subdivision Plat does not deviate from the approved Preliminary Subdivision Plat as conditioned by the decision maker.

A. If the city planner determines that the Final Subdivision Plat submitted by the applicant deviates from the approved Preliminary Subdivision Plat, the modified subdivision shall be subject to the same Type III process and review standards as were applicable to the Preliminary Subdivision Plat. However, if such a review is necessary, the review shall be limited only to those aspects of the Final Subdivision Plat that deviate from the approved Preliminary Subdivision Plat. The decision maker's original approval of all other aspects of the subdivision may be relied upon as a conclusive determination of compliance with the applicable standards.

B. The city planner shall approve a Final Subdivision Plat that is consistent with the approved Preliminary Subdivision Plat, including any conditions attached thereto.

16.03.110 Filing and recording of Final Subdivision Plat. Following approval of the Final Subdivision Plat the applicant shall file with the county recorder the confirmed and approved copy of the Final Subdivision Plat together with all pertinent documents approved as to form by the city attorney.

16.03.120 Post-approval modifications to approved plat. All modifications to a subdivision that has received Final Plat approval shall be applied for and processed in the same manner as was the original Preliminary Subdivision Plat and subject to the same approval standards. However, the city is entitled to rely upon the prior decision and findings for those portions of the subdivision that the applicant does not propose to modify.

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Chapter 16.04 - Partitions – Process and Standards

Sections:

16.04.010 Purpose and general provisions
16.04.020 Preapplication conference required
16.04.030 Partition submission requirements
16.04.040 Frontage width requirement
16.04.050 Accessway requirements
16.04.060 Pavement requirements
16.04.070 Width/depth requirements
16.04.080 Partition approval standards
16.04.090 Final recordable partition plat
16.04.100 Final plat requirements

16.04.010 Purpose and general provisions.

A. Partitions shall be processed as a Type I decision by the city planner under the applicable provisions in MMC Chapter 15.07. Approval shall be granted only upon determination by the city planner that all applicable requirements of this Title and ORS Chapter 92 have been met.

B. If a parcel of land to be partitioned, being large in size, is divided into more than two parcels within any calendar year, or if the proposed partition is determined to be a series partition, the city planner may require full compliance with all substantive and procedural requirements for a subdivision plat if, in his/her judgment, the entire parcel is in the process of being subdivided.

16.04.020 Preapplication conference required. Before the city will accept an application for a partition, the applicant must attend a preapplication conference under MMC Section 15.07.030

16.04.030 Partition submission requirements. The applicant shall submit 5 copies of the proposed partition to the city planner on a reproducible material, drawn at a minimum scale of one inch equals 100 feet with the following information

A. A completed application, on a form as provided by the city planner;

B. A boundary survey prepared by an Oregon Professional Land Surveyor;

C. Legal descriptions of the parent parcel(s) and the resulting parcels to be created;

D. Copies of proposed deeds for the parcels to be created;

E. A receipt from the county assessor's office indicating that all taxes for the lot or parcels involved are paid in full for the preceding tax year.

F. The name and address of the owner and the land surveyor or engineer, if any;

G. County tax assessment map numbers of the land to be partitioned;

H. The map scale and true north point;

I. Approximate courses and distances of all parts of the partition; .

J. Around the periphery of the proposed partition, the boundary lines and names of adjacent partitions and subdivisions, streets and tract lines of adjacent parcels of property;

K. The location, width and names of all existing or platted streets or other public ways and easements within the proposed partition and other important features, such as the general outline and location of permanent buildings, pedestrian/bicycle accessways, water courses, power lines, telephone lines, railroad lines, gas line, water lines, municipal boundaries and section lines.

L. All areas within a floodplain;

M. All areas with known unstable slopes;

N. All wetlands, lakes, streams or creeks, even if surface water is apparent for only part of the year.

16.04.040 Frontage width requirement. Unless a joint accessway is provided pursuant to Section 16.04.050(B), all parcels of land that are created by a partition in a one-family or two-family zoning district shall have a minimum of 20 feet of frontage on an existing public, county, state or federal road or street. For parcels of land created by a partition in all other zoning districts, the parcels shall have a minimum of 30 feet of frontage on an existing public, county, state or federal road or street.

16.04.050 Accessway requirements.

A. Flag lots may be permitted only where the configuration or topography of the property would otherwise preclude the partitioning and development of the property. The width of the accessway for flag lots shall be equal to or greater than the width of the street frontage.

B. A minimum of 10 feet of accessway width and frontage width shall be provided for each residential unit or parcel served by the accessway. The total accessway and frontage width need not exceed the minimum average lot width requirement for the parcel. A private

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accessway (private street) will only be approved when it can be demonstrated that the private accessway is designed and can be constructed to function safely. Any private accessway shall be required to be paved and to comply with the minimum dimensional standards provided in Section 2.030. A private accessway will only be considered where topographic constraints or other factors make direct access from a street meeting public full street standards via a private driveway or shared private driveway impracticable. Two dwellings may share a single private driveway where there are spacing constraints or other factors that justify a joint driveway, and it can be demonstrated that a joint or shared driveway can operate safely.

C. A minimum 12-foot wide fire access corridor shall be provided to all parcels created through the partitioning process. No vehicular obstruction, including trees, fences, landscaping, and structures shall be located within the fire access corridor.

D. The area of any accessway shall be excluded from calculations of a minimum lot area for any new parcels or lots.

16.04.060 Pavement requirements. A minimum of 12 feet of paved driveway shall be provided for single-family units on parcels created through the partitioning process. Driveways less than 15 feet in width shall provide 2 feet of improved shoulder on either side of the driveway's paved surface. If two units will use the drive, a minimum of 15 feet of pavement width shall be provided along with 2 feet of improved shoulder on either side of the driveway's paved surface. If the proposed accessway exceeds 150 feet in length, it may be required to be paved to a minimum width of 20 feet including a turnaround for emergency vehicles in accordance with Oregon State Fire Code requirements. If required, the turnaround shall be approved by the city engineer in consultation with the fire chief.

16.04.070 Width/depth requirements. New parcels created through the partitioning process shall be exempt from the minimum average width and depth requirements of the zoning code. The minimum width and/or depth of any new parcel created through the partitioning process shall not be less than 60 feet.

16.04.080 Partition approval standards. All parcels created by partition shall conform to the requirements of this Title, ORS 92.010 to ORS 92.160, and any other applicable city or state law. The applicant shall submit a written statement addressing conformity with these standards. The city planner shall determine if the applicant's submission complies with these standards, and issue to the applicant a notice of decision consistent with MMC Section 15.07.090 The city planner's decision is final and not appealable to any other decision maker within the city.

16.04.090 Final recordable partition plat. If the city planner approves the applicant's partition application, the applicant shall submit a final partition plat that meets all applicable requirements of the city planner's decision, as well as the applicable requirements of ORS Chapter 92 for signature by the appropriate city official prior to recording with the county.

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16.04.100 Final plat requirements. The city planner shall review the final partition plat for conformance with any conditions and the applicable requirements of ORS Chapter 92. The final partition plat shall contain, or be accompanied by, the following information:

A. The city planning file number, located just below the title block.

B. A tie to the city's GPS Geodetic Control Network. This shall include the following: (1) ties to at least two control monuments showing measured distance and bearing between the two control monuments tied and record distance and bearing, (2) state plane coordinates for control points tied; and (3) scale factor to convert ground measured distances to grid distances. Based on the tie to the city's GPS geodetic control network, a state plan coordinate shall be shown on the initial point. The bearings for the plat shall be based on the city's GPS Geodetic Control Network.

C. The lines and names of all streets or other public ways, pedestrian/bicycle accessways, parks, playgrounds and easements intended to be dedicated for public use, or granted for use of the owners within the partition.

D. The length and bearings of all straight lines, curves, radii, arcs and semi-tangents of all curves. Data may be shown on a separate table on the same plat sheet.

E. All dimensions along the lines of each lot in feet and decimals of a foot to the nearest hundredth, with the true bearings, and any other data necessary for the location of any lot line in the field.

F. Suitable, primary control points or monuments, approved by the city engineer and descriptions and ties to such control points, to which all dimensions, angles, bearings, and similar data given on the plat map shall be referred.

G. Street centerline control based on recorded city control surveys for street centerlines, if applicable.

H. The locations of all permanent monuments.

I. The names or official reference numbers of all recorded subdivisions or partitions plats immediately adjacent to the land division.

J. The date, true north point and scale.

K. The boundary of the divided tract, with the bearings, course and distances marked thereon, based on a survey made by a professional land surveyor registered in the State of Oregon, and to close with an error of not more than one foot in 4,000 feet.

L. Building envelopes indicating compliance with setbacks. This shall be shown on a separate copy of the final plat.

M. All homeowners agreements, maintenance agreements, Chapters of incorporation, bylaws and CC&Rs. These matters shall be reviewed and verified by the city attorney for conformance with state and local requirements before recording with the final plat.

N. The following declaration shall appear on the face of the final plat and be signed by all parties having ownership interest in the land being divided or adjoining lands through which easements are being granted:

> "Know all people by these presents that _____, owner(s) of the land depicted hereon, does (do) hereby make, establish and declare the attached plat of "_____" as described in the accompanying surveyor's certificate, to be a true and correct map and plat thereof. All lots and tracts are of the dimensions shown hereon and all streets and public rights of way are the dimensions shown hereon. I (we) do hereby dedicate to the use of the public as public ways forever, all streets, reserve strips and easements as shown or stated on said map, ("and hereby grant Tracts "_____") to the City of Mosier for the uses indicated and that the public is hereby granted the right to maintain or replace utilities in these easements and will not be in any way responsible for replacing the landscaping, fencing or other structures, shrubs or trees that may exist or be placed in these easements. The city is required to give adequate notice before such activities are commenced and shall limit activities to those necessary to achieve the purpose of maintaining utilities, and does further state that _____."

O. The description in the surveyor's certification of the land divided shall be a metes and bounds description.

P. The location of reserve strips. Tracts granted to the city as reserve strips shall be automatically dedicated to the public as public ways forever upon dedication of the future street extensions.

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Chapter 16.05 – Property Line Adjustments and Abandonment – Process and Standards

Sections:

16.05.010 Purpose and general provisions
16.05.020 Preapplication conference required
16.05.030 Adjustment/abandonment submission requirements
16.05.040 Contents of property line adjustment deed
16.05.050 Adjustment/abandonment approval standards

16.05.010 Purpose and general provisions. Applications for property line adjustments and abandoments shall be processed as Type I decisions by the city planner under the applicable provisions in MMC Chapter 15.07. Approval shall be granted only upon determination by the city planner that all applicable requirements of this Title and ORS Chapter 92 have been met.

16.05.020 Preapplication conference required. Before the city will accept an application for a property line adjustment or abandoment, the applicant must attend a preapplication conference under MMC Section 15.07.030

16.05.030 Adjustment/abandonment submission requirements. The applicant shall submit two copies of the following documents to the city planner.

A. A completed application, on a form as provided by the city planner;

B. A boundary survey prepared by an Oregon Professional Land Surveyor in accordance with ORS 92.060(7) except where the application proposes the relocation of a currently monumented common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary. The survey shall include in its title the following: "Proposed Property Line Adjustment Survey," shall identify the city planning file number and approval date immediately below the title block with space for signature and date by the city planner.

C. Legal descriptions of the parent parcels to be adjusted and the resulting parcels to be created;

D. The proposed property line adjustment deed as provided in the MZO;

E. A receipt from the county assessor's office indicating that all taxes for the lot or parcels involved are paid in full for the preceding tax year.

F. Signatures of all landowners involved either on the boundary survey its self or acknowledging receipt, review, and concurrence with the content of the boundary survey.

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16.05.040 Contents of property line adjustment deed.

A. In accordance with ORS 92.190(4), the proposed property line adjustment deed shall contain the names of the grantors and grantees, the legal description of the tract of land to be conveyed to create the adjusted line, references to the original recorded documents, and the signatures of all grantors and grantees, with proper acknowledgments.

B. The property line adjustment deed shall identify the city planning file number and shall contain a statement declaring that the purpose of the deed is for a property line adjustment. Reference to the affected properties by map and tax lot shall be in addition to reference by legal description.

16.05.050 Adjustment/abandonment approval standards. All parcels created through a lot line adjustment or abandonment shall conform to the applicable requirements of this Title, ORS 92.010 to ORS 92.160, and any other applicable city or state law. The city planner shall determine if the applicant's submission complies with these standards, and issue to the applicant a notice of decision consistent with MMC Section 15.07.090. The city planner's decision is final and not appealable to any other decision maker within the city.

Any errors or omissions identified after recording of the boundary line adjustment map and determined to be consistent with the limits and intent of the original approval may be amended by the applicant through the amendment process deemed appropriate by the County Surveyor.

NOTE: Creation and recording of the boundary survey does not convey ownership in the properties described on the Property Line Adjustment Map. Ownership is not transferred until the deeds describing the new alignment are signed and recorded. The applicant shall record the new property descriptions within 6 months of the city planner's approval, after which the decision shall be null and void.

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