

## ORDINANCE NO. 864

**AN ORDINANCE ESTABLISHING LAND USE ZONES TO REGULATE THE LOCATION OF BUILDING STRUCTURES AND THE USE OF LAND WITHIN THE CITY OF MADRAS, OREGON; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; REPEALING AND REPLACING ORDINANCE NO. 723, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the current zoning Ordinance No. 723 was adopted by Council on February 8, 2005; and

**WHEREAS**, initially staff had thought to simply amend Ordinance No. 723; however, following an extensive review by the Community Development Department, with the assistance of the City Attorney, and considering all of the proposed amendments which were necessary to bring the ordinance into compliance with State and Federal regulations, and provide clarification where needed, and after taking into consideration that Ordinance No. 723 has been amended numerous times before, staff determined that it would be better to take the existing language, incorporate the proposed amendments if approved by the Planning Commission and City Council, and repeal and replace Ordinance No. 723 with a new zoning ordinance; and

**WHEREAS**, a public hearing was scheduled before the City Planning Commission on September 3, 2014 to provide the Planning Commission with an opportunity to review the proposed amendments, to accept comments from City staff, and to consider written and oral testimony from the public; and

**WHEREAS**, the public hearing was continued to September 17, 2014 to allow staff to make some requested changes, and to conduct additional research in response to some questions that were asked by the Planning Commission; and

**WHEREAS**, after reviewing the revised amendments, receiving staff's response to their questions, and accepting any oral and written testimony from the public, the Planning Commission deliberated the matter fully and took formal action to approve the proposed text amendments with the understanding that their recommendations would be forwarded to the City Council for final consideration, modification, and/or approval; and

**WHEREAS**, a public hearing was scheduled before the City Council on October 14, 2014 to provide the Council with an opportunity to review the proposed amendments, consider the Planning Commission's recommendations, accept comments from City staff, and to consider any written and oral testimony from the public; and

**WHEREAS**, after reviewing the Planning Commission's recommendations, carefully considering the text amendments being proposed, receiving comments from City staff, and accepting any written and oral testimony from the public, the City Council deliberated the matter fully and unanimously approved the proposed text amendments with instructions to staff to prepare the appropriate ordinance for review and consideration at a future City Council meeting; and

**WHEREAS**, the approved amendments were incorporated into Ordinance No. 864 and presented to the City Council on January 13, 2015 for final consideration with the understanding that Ordinance No. 864 repeals and replaces Ordinance No. 723 in its entirety.

**NOW, THEREFORE**, the City of Madras ordains as follows:

### ARTICLE 1: INTRODUCTORY PROVISIONS

**SECTION 1.1 TITLE** - This ordinance shall be known as the City of Madras Zoning Ordinance ("Zoning Ordinance" or the "Ordinance").

#### **SECTION 1.2: PURPOSE**

- A. To implement the Comprehensive Plan as adopted by the City Council on January 16, 1990, as well as, any adopted revisions thereafter.
- B. To comply with Chapters 197 and 227 of the Oregon Revised Statutes.
- C. To promote the public health, safety, and welfare of the citizens of the City of Madras.
- D. To protect the character and values of land and buildings and economic stability of sound residential, business and industrial districts and to enhance the quality of the desired environment in them by:
  1. Preventing the intrusion of inharmonious uses.
  2. Preventing the encroachment on desirable open space appurtenant to each district.
  3. Providing for the safe and efficient movement of existing and prospective traffic.
  4. Assuring the provision of necessary off-street parking space for vehicles.
- E. To provide for additional growth and development in a manner appropriate to the character of the City and which will contribute to the economic stability of the City and strengthen the basis of its private and governmental economy.
- F. To assure that future development occurs in an orderly manner and is relatively compact to provide for economy and efficiency in public services and utilities and to protect the City from costs that may be incurred when unsuitable, scattered or premature development occurs.

- G. To assure satisfactory physical relationships between districts of different use characteristics and among uses of various types and to minimize conflicts among land uses.
- H. To minimize traffic hazard, traffic congestion and the conflict between land uses and the movement of traffic.
- I. To preserve the City's right to be attractive and pleasing in appearance, and to aid in the development of the City by assuring that development in areas of higher density or of commercial or industrial use and along appropriate routes of travel is neat, orderly and attractive.

**SECTION 1.3 DEFINITIONS.** As used in this ordinance the singular includes the plural and the masculine includes the feminine and neuter; the word "may" is discretionary, the word "shall" is mandatory. The following words and phrases shall mean:

**ACCESS.** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

**ACCESSIBLE PARKING.** Parking spaces designed for persons with mobility limitation. Accessible parking spaces shall be at least ninety-six inches (96") wide and shall have an adjacent aisle a minimum of sixty inches (60") wide.

**ACCESSORY STRUCTURE.** A structure, which is incidental and subordinate to the primary use of residential property and located on the same lot as the main use. Shipping containers or similar structures are not allowed within the City Limits or Urban Growth Boundary.

**ADULT CARE COMPLEX.** Multi-living unit(s) where the integral part of this facility shall have health and medical services provided by the operator either externally or internally by a State of Oregon Licensed health/medical provider and shall have a separate area for a communal recreational facility and may have a separate area for a communal dining facility.

**AFFECTED GOVERNMENTAL BODY.** A city, county, state or federal agency or special district which either has a jurisdictional interest or is of such proximity to the land partition that a reasonable likelihood of annexation exists.

**AFFECTED PERSON.** Includes those owners of record of real property located within a minimum distance of 250 feet, exclusive of public street and other right-of-ways, from the property subject to a permit required by this ordinance.

**AGENT.** Any person who represents or acts for any other person in disposing of interests in a land development. Includes a real estate broker as defined in ORS 696.010(12) but does not include an attorney-at-law whose representation of another person consist solely of rendering legal services.

**AIRPORT.** A tract of leveled land where aircraft can take off and land, usually equipped with hard surfaced landing strips, a control tower, hangars, and accommodations for passengers and cargo.

~· **Approach Safety Zone.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of:

- a. 1,250 feet for a utility runway having only visual approaches;

- b. 1,500 feet for a runway other than a utility runway having only visual approaches;
- c. 2,000 feet for a utility runway having a non-precision instrument approach; and
- d. 3,500 feet for a non-precision instrument other than utility, having visibility minimums greater than three-fourths (3/4) of a statute mile.

The Airport Approach Safety Zone extends for a horizontal distance of 5,000 feet at a slope of twenty feet (20') for each foot upward (20:1) for all utility and visual runways and 10,000 feet at a slope of thirty-four feet (34') for each one foot upward (34:1) for all non-precision instrument runways other than utility.

- ~· **Clear Zone.** Extended from the primary surface to a point where the approach surface is fifty feet (50') above the runway and elevation.
- ~· **Conical Surface.** Extends one foot upward for each twenty feet (20') outward (20:1) for 4,000 feet beginning at the edge of the horizontal surface [5,000 feet from the center of each end of the Primary Surface of each visual and utility runway or 10,000 feet from all non-precision instrument runways other than utility at one-hundred fifty feet (150') above the airport elevation] and upward extending to a height of three-hundred fifty feet (350') above the airport elevation.
- ~· **Hazard.** Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
- ~· **Horizontal Surface.** A horizontal plane one-hundred fifty feet (150') above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and 10,000 feet from the center of each end of the Primary Surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.
- ~· **Imaginary Surfaces.** Those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
- ~· **Instrument Runway.** A runway equipped or to be equipped with a precision electronic navigation aid or landing aid or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions. Instrument runways are classed as precision and non-precision instrument runways.
- ~· **Landing Area.** The area of the airport used for the landing, taking off or taxiing of aircraft.

- ~· **Noise Impact.** Noise levels exceeding fifty-five (55) Ldn.
- ~· **Primary Surface (Runway).** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
  - a. 250 feet for utility runways having only visual approaches
  - b. 500 feet for utility runways having non-precision instrument approaches
  - c. for other than utility runways the width is:
    1. 500 feet for visual runways having only visual approaches
    2. 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths of a statute mile.
    3. 1,060 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile and for precision instrument runways.
- ~· **Runway.** The paved surface of an airport landing strip.
- ~· **Transitional Zones.** Extended one foot upward for each seven feet (7') outward (7:1), beginning on each side of the Primary Surface, which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of one-hundred fifty feet (150') above the airport elevation (Horizontal Surface).
- ~· **Utility Runway.** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.

**AISLE.** The traveled way by which vehicles enter, circulate, and depart development sites.

- ~· **Primary Aisle** - a travel way used within development sites primarily for vehicle circulation;
- ~· **Parking Aisle** - a travel way used within development sites used primarily to access parking spaces.

[This Definition Amended by Ordinance No. 890, Passed by Council September 13, 2016]

**ALLEY.** A public or private street primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street. An alley can also be defined as a narrow way used primarily for vehicular service access to the back or side of properties abutting a street.

**ALTERATION** - any substantial change, addition, or modification in construction, appearance, function, use, or occupancy of a building, structure, or land. Alteration does not include normal maintenance and repair or total demolition. Alteration does include, but is not limited to, the following:

- Changes to the facade of a building;
- Changes to the interior of a building requiring a building permit;
- Increases or decreases in floor area of a building;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to required landscaping; and
- Changes in the topography of the site.

**ANCILLARY.** Uses or services that are subordinate to other uses or services within a structure.

**APARTMENT.** A building or portion thereof designed for occupancy by three (3) or more families living independently of each other.

**APPLICANT.** Any person submitting an application for development.

**ARTERIAL.** A restricted access street of substantial continuity which is primarily a traffic artery for inter-communication among large areas, and so designated by the City.

**ASSISTED LIVING FACILITY.** A residential facility that provides either apartments or rooms that provide a range of specialized services exclusively for elderly and/or persons with disabilities. At a minimum, assisted living facilities must provide on-site nursing care, communal laundry, meals, and activities, public restrooms and twenty-four (24) hour on-call care.

**AUTO BODY SHOP.** A shop or garage where the body of automotive vehicles are repaired.

**AUTOMOBILE/TRAILER SALES AREA.** An open area other than a street, used for the display, sale or rental of new or used automobiles or trailers and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold, or rented on the premises.

**AUTOMOBILE WRECKING YARD.** Premises used for the storage or sale of used automobile or truck parts or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof.

**BASE FLOOD.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

**BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides. A story partly underground.

**BICYCLE ROUTE.** A right-of-way for bicycle traffic.

**BOARDING HOUSE.** A building or portion thereof, other than a hotel, where meals or lodging or both are provided for compensation for more than four (4) persons, but not to exceed twenty (20) persons.

**BREAKAWAY WALL.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**BUILDING.** A structure which is designated and suitable for the habitation or shelter of human beings or animals or the shelter or storage of property or for the use and occupation for some purpose of trade or manufacture.

- ~ **COMMUNITY.** A building for civic, social, educational, cultural and recreational activities of a neighborhood or community group or association and not operated primarily for gain.
- ~ **ELEVATED.** For insurance purposes, a non-basement building which has its lowest elevated floor raised above-ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- ~ **EXISTING.** Any building upon which construction was lawfully begun prior to the effective date of this ordinance or the effective date of amendments to this ordinance may be completed, and thereafter shall be considered an existing building.
- ~ **HEIGHT.** The vertical distance measures between the average level of the finished ground surface adjacent to the building and the uppermost point of the building excluding only those features which may exceed the district height limits.
- ~ **LINE.** A line on a plat indicating the limit beyond which buildings or structures may not be erected. If no line is shown on the plat, the building line shall be that set forth in the City Zoning Ordinance.
- ~ **SITE.** A parcel of land occupied or to be occupied by a principal use and accessory uses and/or a building or group of buildings, which parcel complies with all the requirements of this ordinance relating to building sites.

**BUILDING SITE, AVERAGE WIDTH.** That figure obtained by dividing the total area of the parcel of land by the maximum depth of such parcel measured in the general direction of side lines.

**CARRYING CAPACITY.** Level of use which can be accommodated and continued without irreversible impairment of natural resources productivity, the ecosystem and the quality of air, land, and water resources.

**CEMETERY.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes.

**CHURCH.** A building for individuals to practice common religious beliefs. Examples include churches, synagogues and mosques and accessory uses including but not limited to religious instruction and emergency shelters.

**CITY.** City of Madras.

**CITY ADMINISTRATOR.** The person appointed by the City Council to serve as the chief administrative officer of the City or his/her designee.

**CITY ATTORNEY.** The person appointed by the City Council to provide legal representation to the City or his/her designee.

**CITY COUNCIL.** Madras City Council.

**CITY COUNCIL.** The jurisdictional boundaries of the City as may be amended from time to time.

**CITY ENGINEER.** The person serving as the City's primary engineer or his/her designee.

**CLINIC, ANIMAL.** A business establishment in which veterinary services are rendered domestic pets and stock on an outpatient basis.

**CLINIC, MEDICAL-DENTAL.** Single or multiple offices for physicians, surgeons, dentists, chiropractors and osteopaths or other medical practitioners.

**COLLECTOR.** A restricted access street supplementary to the arterial street system used or intended to be used principally for the movement of traffic between arterials and local streets.

**COMMERCIAL.** The purchase, sale, or other transaction involving the handling or disposition, other than included in the term "Industry" as defined in the appropriate section, of any article, substance, or commodity for the livelihood or profit, including shops for the sale of personal services including professional services, and places where commodities, services, or merchandise are sold or agreements are made to furnish them.

**COMMERCIAL AMUSEMENT ESTABLISHMENT.** Any place where entertainment or amusement is provided, where the public on a commercial basis may observe or join in the activities.

**COMMUNICATIONS FACILITY.** Any structure or facility that transmits radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission of such signals, including towers, monopoles, and similar supporting structures, equipment cabinets or buildings, parking areas, 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, whip or other similar antennas no taller than six feet with a maximum diameter of two inches, antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers and TV broadcast stations, low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public right-of-way, or military, Federal, State, and local government communication facilities except for towers.

**COMMUNITY DEVELOPMENT DEPARTMENT.** The City's Community Development Department or other office responsible for managing development within the City.

**COMMUNITY DEVELOPMENT DIRECTOR.** The chief administrative officer of the Community Development Department or his/her designee.

**COMPREHENSIVE PLAN.** The then current Comprehensive Plan adopted by the City of Madras as may from time to time be amended.

**CONDOMINIUMS.** A type of residential development utilizing zero lot lines, individual ownership of units and common ownership of open spaces and other facilities, and which are regulated in part, by State Law (ORS 91.010 and ORS 91.657). Condominiums shall be reviewed in the same manner as either a duplex, multi-family dwelling, multi-family complex or as a Planned Unit Development. Provided, however, any development involving four (4) acres or more shall be reviewed as a Planned Unit Development.

**CONFORMING.** In compliance with the regulations of the applicable zone designation.

**CONTIGUOUS LAND.** Two (2) or more parcels or units of land including water, under a single ownership which are not separated by an intervening parcel of land under a separate ownership, including limited access right-of-way which would deny access between the two (2) parcels under single ownership.

**CORNICE.** The horizontal projecting part crowning the wall of a building.

**COUNTY.** Jefferson County, Oregon

**CRAWLSPACE.** Space between the first floor and the surface of the ground (not basement); space is high enough to crawl through for repairs and installation of utilities.

**CRITICAL FACILITY.** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**CUL-DE-SAC.** A short street having one (1) end open to traffic and terminated by a vehicle turn-around. (Shall be a "bulb" circular design allowing for the continuous movements of vehicles in one direction. Where possible shall include a landscape center island. - This wording not yet formally added to definition section.)

**DAY CARE FACILITY.** Day care facility means any facility that provides day care to children, including a child day care center, group day care home, home of a family day care provider, including those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, child development center, except for those facilities excluded by law. This term applies to the total day care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

**DENSITY.** The permitted number of dwelling units per gross acre of land to be developed.

**DESIGN STANDARD.** Standards that set forth specific improvement standards.

**DEVELOPER.** The legal or beneficial owner or owners of a lot or any land included in a proposed development. The holder of an option or contract to purchase, or any other person having enforcement proprietary interest in such land, as well as any person, corporation, partnership or other legal entity who creates or proposes to create a land development; includes any agent of a developer.

**DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**DORMER.** A window set vertically in a gable projecting from a sloping roof.

**DRAINAGE EASEMENT.** An easement required for drainage ditches, or required along a natural stream for the flow of water therein, and to safeguard the public against flood damage or the accumulation of surface water.

**DRIVE-IN.** An establishment dispensing food and/or drink and catering to customers who remain, leave or return to their automobile for consumption of said food or drink on the premises.

**DWELLING.** A building or part thereof designed for and/or used for residential occupancy and containing one (1) or more dwelling units.

- ~· **Duplex or Two Family.** A detached building containing two (2) dwelling units.
- ~ **Multi-Family.** A building or group of buildings on a single lot containing three (3) or four (4) dwelling units.
- ~· **Seasonal.** A dwelling unit, including a recreational vehicle, travel trailer, or camping vehicle, designed for and used as a temporary dwelling by one (1) family for recreational or seasonal purposes only.
- ~· **Single Family.** A detached building containing one (1) dwelling unit. The definition of single family dwelling excludes a manufactured dwelling.
- ~· **Unit.** Means one (1) or more rooms constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other room or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**EASEMENT.** A grant of the right to use a parcel of land or portion thereof for specific purposes where ownership of the land or portion thereof is not transferred.

**EMERGENCY SHELTER.** A facility providing short-term (non-permanent) transitional housing and shelter for the homeless or victims of domestic abuses when a crisis occurs and immediate shelter is needed. Services within Emergency Shelters may be provided including, but not limited to, accommodations, meals, toilet/bathing facilities, clothing/laundry, case management services and information on or referral to other community resources.

**FACADE.** The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

**FINANCE DEPARTMENT.** The City's Finance Department or other office responsible for administering the City's finances.

**FINANCE DIRECTOR.** The chief administrative officer of the City's Finance Department or his/her designee.

**FLOOD.** An overflow of water onto lands not normally covered by water.

**FLOOD HAZARD AREA.** Areas designated on Flood Insurance Rate Maps or National Flood Insurance Program maps as "Special Flood Hazard Areas" or areas where National Flood Insurance Program floodplain management regulations must be enforced and the area where mandatory purchase of flood insurance applies.

**FLOOD INSURANCE RATE MAP (FIRM).** The official map on which the Federal Emergency Management Agency has delineated both the special hazards areas and the risk premium zones applicable to the City.

**FLOOD INSURANCE STUDY.** The official report provided by the National Flood Insurance Program that includes flood profiles, maps, and other data tables.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FLOOR AREA.** The sum of the gross horizontal areas of the floors of a building, measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings, but not including:

- ~· attic space providing headroom of less than seven feet (7')
- ~· basement, if the floor above is less than six feet (6') above grade
- ~· uncovered steps or fire escapes
- ~· private garages, carports, or porches
- ~· accessory water towers or conning towers
- ~· accessory off-street parking or loading spaces

**FRONTAGE.** All property fronting on one (1) side of a street and measured along the street line, between intersecting streets or between a street and a right-of-way, water-way, end of a dead-end of city boundary.

**GABLE.** A triangular wall section at the end of a pitched roof, bounded by the two roof slopes.

**GARAGE.** A commercial establishment where cars are repaired, serviced, or parked inside the building.

**GRADE.** The slope of a street, or other public way, specified in percentage (%) terms.

- ~· **Ground Level.** The average of the finished ground level at the center of all walls of a building. In case a wall is parallel to and within five feet (5') of a sidewalk, the ground level shall be figured at the sidewalk.

**GROUP DAY CARE HOME OR HOME.** Group day care or home means a day care facility located in a building constructed as a single family dwelling that is certified to care for no more than twelve (12) children at any given time.

**GUEST HOUSE.** A detached building used as sleeping quarters for guests of the occupants of the main dwelling on a non-commercial basis and having no cooking facilities.

**HEALTH SERVICES.** Clinically related diagnostic, treatment or rehabilitative services, or medical services, medical laboratories, outpatient care facilities, and/or including State of Oregon licensed professionals who are operating facilities engaged solely in medical and health care services to people, including but not limited to medical, dental, orthodontic, cosmetic (plastic) surgery, chiropractic, naturopathic, specialized medical, physical therapy,

and/or includes alcohol, drug or controlled substance abuse and mental health services that may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

**HEARING, INITIAL.** An initial hearing is a quasi-judicial hearing authorized and conducted by the Hearings Body to determine if a change or land subdivision shall be granted or denied except those subject to administration review.

**HEARINGS BODY.** The Subdivision Committee, Hearings Officer, or Governing Body.

**HEARINGS OFFICER.** A planning and zoning Hearings Officer appointed or designated by the City Council pursuant to ORS 227.165 or in the absence of such appointed Hearings Officer, the Planning Commission.

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

**HOME OCCUPATION.** The lawful occupation conducted in the dwelling or accessory structure by the property owner(s) or person(s) residing in the dwelling.

**HOSPICE.** A facility that provides residential living quarters for up to six (6) terminally ill persons.

**HOSPITAL.** A facility with an organized medical staff, with permanent facilities, that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims, to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities.

**IMPERVIOUS SURFACE.** A surface that has been compacted or covered with a layer of material such that it is highly resistant to infiltration by water.

**IMPROVEMENTS.** Include, but are not limited to, streets, alleys, curbs, roadbeds, road surfaces, storm drains and appurtenances, sidewalks, street lights, street signs, fire hydrants, sanitary sewers and appurtenances, public water supply and water distribution systems and other utilities.

**INDUSTRIAL.** The manufacturing, processing, production, compounding, packaging or assembling of products for sale, which does or does not require or create emissions or discharges other than normal sanitary sewage wastes or the storage of materials which require permits be issued by the Oregon State Department of Environmental Quality.

**INTERESTED PERSON.** Any person appearing on record or presenting written evidence at a hearing.

**JUNK.** Scrap, thrown away or discarded as useless.

**JUNKYARD.** A lot that is used to store junk as scrap metal or old car parts that can be resold.

**KENNEL.** A shelter in which four (4) or more dogs or cats, at least four (4) months of age, are kept commercially for board, propagation, training or sale.

**LAND USE PERMIT.** "Land Use Permit" includes any approval of a proposed development of land under the standards in the City land development and zoning ordinances involving the exercise of significant discretion in applying those standards. By way of illustration, "land use permit" includes review of the following applications: conditional use, variance, partition, master plan, exceptions, site plan, modification of condition, and subdivision.

**LANDSCAPING.** To adorn or improve (a section of ground) by contouring the land and planting a combination of flowers, shrubs, , trees, and groundcovers.

**LIVESTOCK.** Domestic animals such as cattle, horses, goats, chickens, fowl, rabbits, pigs, llamas, or sheep, which are raised for home use or for profit outside of the City Limits.

~· **Feeding Yard (Feedlot).** An enclosure designed or used for the purpose of the concentrated feeding or fattening of livestock for marketing.

~· **Sales Yard.** An enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment or other means.

**LOADING SPACE.** An off-street space within a building or on the same lot with a building, for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials, and which space has access to a street or alley.

**LOCAL STREET CIRCULATION PLAN.** A plan that shows the proposed location for future streets within a development site, subdivision, or neighborhood.

[This Definition Added by Ordinance No. 890, Passed by Council on September 13, 2016.]

**LOT.** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required; such lot shall have frontage on a public street, or easement approved by the Planning Commission or City Council. A lot may be a single lot of record, or a combination of complete lots of record, or complete lots of record and portions of lots of record, or a parcel of land described by metes and bounds; provided that in case of division there shall have been approval given to said division by the Planning Commission under the conditions set forth in the Subdivision Ordinance.

- ~· **Area.** The total horizontal area within the lot lines of a lot, exclusive of streets and easements of access to other property. The area of a residential lot or parcel that is encumbered by an easement, where a public trail will be constructed, shall not be included in the lot area calculation.
- ~· **Corner.** A lot abutting upon two (2) or more streets other than alleys, at their intersection, or upon two (2) parts of the same street, such streets or parts of same street forming an interior angle of less than 135 degrees within the lot line.
- ~· **Coverage.** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street other than an alley shall be considered frontage, and yards shall be provided as indicated under yard in this section.
- ~· **Depth.** The average horizontal distance between the front lot line and the rear lot line.
- ~· **Line.** Any line bounding a lot as herein defined.
- ~· **Front.** The line on the lot facing the street from which the access to the lot is commonly made.
- ~· **Rear.** A lot line, which is opposite the front lot line. In the case of an irregular or triangular-shaped lot, a lot line ten feet (10') in length within the lot parallel to and at the maximum distance from the front lot line.
- ~· **Side.** Any lot line not a front lot line or a rear lot line.
- ~· **Measurements:**
  - > Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.
  - > Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty percent (80%) of the required lot width, except in the case of lots on the turning circle of a cul-de-sac, where the eighty percent (80%) requirement shall not apply.
- ~· **Through.** An interior lot having a frontage on two (2) streets and/or highways, not including an alley.

- ~ **Width.** The horizontal distance between the side lot lines measured within the lot boundaries or the average distance between side lot lines within the buildable area. In the case of a corner lot, lot width shall mean the mean horizontal distance between the longest front lot line and the opposite lot line not abutting the street.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**MANUFACTURED HOME OR MANUFACTURED DWELLING.** A structure transportable in one (1) or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, and electrical systems therein.

**MANUFACTURED HOME PARK OR MANUFACTURED DWELLING PARK.** Any privately owned place where four (4) or more manufactured homes used for human occupancy are parked within five hundred feet (500') of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is the rental of spaces..

- ~ **Existing.** A manufactured home park for which the construction facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.
- ~ **Expansion.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**MEDICAL MARIJUANA DISPENSARY.** Any structure or use of property subject to registration through the Oregon Health Authority under ORS 475.300 to 475.346, as may be amended from time to time, involving the sale, distribution, transmittal, gift, dispensing, and/or otherwise provides medical marijuana or medical marijuana products to medical marijuana qualifying patients excluding the wholesaling or production of medical marijuana or medical marijuana products.

[This Definition Added by Ordinance No. 871, Passed by Council on April 28, 2015]

**MEDICAL RELATED OFFICE.** An office with functions such as consulting, record keeping, clerical work, and sales related directly to hospitals and clinics.

**MEDICAL RELATED USES:** Medical schools and associated dormitories, medical conference centers, medical appliance sales, or pharmacies.

- ~· **Ancillary Uses:** Ancillary uses or services that comprise less than 30% of the square footage of medical/health care structure; provided there are no visible indications of the use or service outside of the medical/health care structure. No outside signs shall be allowed to advertise said ancillary use or service.

**MIXED USE EMPLOYMENT (MUE).** A zoning district that is intended to provide opportunities for the development of a variety of employment uses including business and office parks, light manufacturing / assembly, wholesale trade and show rooms, warehouse / distribution, retail goods and services, and other commercial and light industrial uses that are common in mixed-use employment districts.

[This Definition Added by Ordinance No. 890, Passed by Council on September 13, 2016.]

**MODIFICATION OF APPLICATION.** The applicant's submittal of new information after an application has been deemed complete and prior to the close of the record on a pending application that would modify a development proposal by changing one or more of the following components: proposed uses, operating characteristics, intensity, scale, site layout (including but not limited to changes in setbacks, access points, building design, size or orientation, parking, traffic or pedestrian circulation plans), or landscaping in a manner that requires the application of new criteria to the proposal or that would require the findings of fact to be changed. It does not mean an applicant's submission of new evidence that merely clarifies or supports the pending application.

**MODULAR HOME.** A sectional or factory built house to which wheels may or may not be attached for the purpose of moving it to a home site where it is affixed to real property on a permanent foundation.

**NEIGHBORHOOD COMMERCIAL.** Limited commercial activities primarily for the convenience of the surrounding residential neighborhood.

**NEW CONSTRUCTION.** Structures for which the "start of construction" commenced on or after the effective date of this ordinance (July 11, 1989).

**NON-CONFORMING STRUCTURE OR USE.** A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

**OPEN SPACE (ORS 197.435(4)).** Any land that is retained in a substantially natural condition or is improved for recreational uses such as golf courses, hiking or nature trails or equestrian or bicycle paths or is specifically required to be protected by a conservation easement. Open spaces may include ponds, lands protected as important natural features, lands preserved for farm or forest use and lands used as buffers. Open space does not include residential lots or yards, streets or parking areas.

**OWNER.** The owner of record or his/her authorized agent or representative having legal authority to use, transfer, or lease land.

**PARAPET.** The portion of a wall that extends above the roof.

**PERMITTED USES (MEDICAL OVERLAY).** State of Oregon licensed facilities, including but not limited to hospitals, for elder, medical, or health care and/or treatment. And, elder, medical, or health care and/or treatment facilities that are under the jurisdiction of a State of Oregon licensed elder, medical, or health care and/or treatment provider. And, professional offices and facilities, including but not limited to clinics, for medical and health care, diagnosis, or treatment which are operated by State of Oregon licensed medical or healthcare operators.

**PLACE OF PUBLIC ASSEMBLY.** A structure or place, which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation, or similar activity.

**PLANNED UNIT DEVELOPMENT.** The development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, bulk or type of dwelling, density, lot coverage or required open space to the regulations otherwise required by this ordinance.

**PLANNING COMMISSION.** The City's Planning Commission made up of seven (7) individuals who reside inside the City Limits and within the Urban Growth Boundary.

**PRIMARY (PRINCIPAL) USE.** The first use to which property is or may be devoted, and to which all other uses on the premises are derived as accessory or secondary uses. As used relative to dwelling units, the primary dwelling would be the first dwelling unit to be located on a specific parcel or lot.

**PROVIDER.** Provider means the person in the group day care home who is responsible for the children in care and in whose name the certificate is issued.

**PUBLIC FACILITY.** A facility (building) for public use by the community or people.

**PUBLIC USE.** Maintained and/or used by the people or community. Participated in or attended by the people or community.

**PUBLIC UTILITY.** An organization supplying water, gas, communication, and electricity to the community.

**PUBLIC WORKS DEPARTMENT.** The City's Public Works Department or other office responsible for administering the City's streets, sewers, and/or water systems.

**PUBLIC WORKS DIRECTOR.** The chief administrative officer of the City's Public Works Department or his/her designee.

**RECREATIONAL VEHICLE.**

A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**RECREATIONAL VEHICLE PARK.** A parcel of land upon which two (2) or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles, tents or other camping facilities, as temporary living quarters for recreation or vacation purposes.

**RESERVE STRIP.** Means a strip of land usually one foot in width, reserved across the end of a street or alley terminating at the boundary of a subdivision, or a strip of land between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension or widening.

**RESIDENCES FOR TEMPORARY OCCUPANCY.** Residences that are used on a temporary basis for the length of stay of a patient in the hospital by the patient's family or guardians.

**RESIDENTIAL CARE FACILITY.** A residential care, residential training or residential treatment facility licensed or registered by or under the authority of ORS 443.400-443.460, or licenses under ORS 418.205-418.327 which provides residential care alone or in conjunction with treatment, or training, or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff persons required to meet licensing requirements of the State of Oregon shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**RESIDENTIAL HOME FACILITY.** A residential treatment or training or an adult foster home licensed by or under the authority of the ORS 443.440-443.825, which provides residential care along or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet licensing requirements of the State of Oregon shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**RESIDENTIAL USE.** A structure or use for occupancy as a human dwelling or lodging place such as a single family, two (2) family, and multi-family dwellings, duplex, apartments, boarding, lodging, or rooming houses, manufactured home, and labor camps.

**RIGHT-OF-WAY.** The area between the boundary lines of a street, road, or other easement.

**ROAD OR STREET.** A public or private way that is created to provide ingress or egress for persons to one (1) or more lots.

~· **Frontage.** A minor street parallel and adjacent to a major arterial providing access to abutting properties, but protected from and protecting through traffic.

**ROADWAY.** That portion of a street or road right-of-way developed for vehicular traffic.

**SATELLITE RECEIVING ANTENNA.** Shall mean a combination of: (1) a device or structure used for receiving television, telecommunication or microwave signals transmitted from satellites on earth-based transmitters; and (2) an amplifier, which is situated at the focal point of the receiving components and whose purpose is to magnify and transfer signals.

**SCHOOL.** A place for teaching, demonstration or learning. However, unless otherwise qualified, the word "school" means a place for primarily academic instruction equivalent to what is commonly known as kindergarten, grade school, junior high school, high school, college, or a combination of them.

**SEASONAL.** Dependent upon, or occurring during one of the four (4) seasons (spring, summer, fall and winter) of the year, which does not exceed three (3) months duration.

**SEMI-PUBLIC USE.** A structure or use intended or used for a semi-public purpose by a church, lodge, club or any other nonprofit organization.

**SERVICE STATION.** A business where fuel for motor vehicles is sold and can include, repairs of vehicles.

**SETBACK.** The minimum allowable horizontal distance from a given point or line of reference, a property line unless otherwise stated, to the nearest vertical wall or other element of a building or structure as defined herein. Where a public access easement abuts the street in lieu of right-of-way, the interior easement line shall become an assumed property boundary for the purposes of setbacks. Architectural features (i.e., cornices, eaves, canopies, sunshades, gutters, chimneys, and flues) shall not project more than twenty-four inches (24") into a required setback.

~· **Front.** - The setback from the property line that serves as the primary entrance to a lot or parcel. Where lot or parcel shapes are irregular or have multiple primary entrances,

- ~· **Side** - The setback from property lines that are neither a front or rear setback.
- ~· **Rear** - The setback from the property line that is opposite of the front setback.

**SIGN.** An outdoor sign (includes supporting structure), display, message, emblem, device, figure, poster, billboard, or other means of advertisement on premises for the sole purpose to inform, or attract the attention of the public.

**SITE OBSCURING.** A fence or planting arranged in such a way as to obscure vision.

**SITE PLAN COMMITTEE.** The Site Plan Committee as described in Section 4.8(A) of this Ordinance.

**START OF CONSTRUCTION.** Substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date.

The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STORAGE FACILITY.** An enclosed, secure facility used for the storage of property.

**STREET.** The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic, and includes the terms road, highway, lane, place, avenue, alley or other similar designation which is commonly open to use by the public.

- ~· **Dead End.** A minor street with only one (1) outlet.
- ~· **Frontage.** That portion of a building site that has a common line with a street right-of-way line, and said street frontage is designated as the front property line.
- ~· **Half.** A portion of, the width of a street, sufficient enough for vehicle safety, temporarily (as approved by the City Public Works Director), usually along the edge of a subdivision, when the remaining portion of the street is likely to be provided in another subdivision.
- ~· **Local Street.** A street intended primarily for access to abutting properties.

- ~· **Stubbed Street.** A street having only one (1) outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or developments on adjacent lands.

**STRUCTURE.** Something which is constructed or built having a fixed base on or fixed connection to the ground or other structure. This includes a gas or liquid storage tank that is principally above ground.

- ~· **Alteration.** Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

**SUBDIVIDE LAND.** To divide a lot into four (4) or more tax lots.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term does not, however, include either:

3. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or;
4. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TEMPORARY USE.** A use meant to last only for a limited amount of time.

**TOWER.** Any mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support one or more communication facilities.

**URBAN GROWTH BOUNDARY.** The City's urban growth boundary as may be amended from time to time.

**USE.** The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

**UTILITY FACILITY.** Any major structure owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing its products or for the disposal of cooling water, waste, or by-products, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoons, sanitary landfills, and similar facilities, but excluding sewer, water, gas, telephone and power local distribution lines and similar minor facilities allowed in any zone.

**VACANT.** Not occupied by a business; building is empty of business(es) and furniture for the purpose of doing business.

**VARIANCE.** An administrative or quasi-judicial decision to deviate from or otherwise modify the requirements of the Zoning Ordinance in a particular instance.

**Minor variance.** A variance request that does not deviate by more than 25 percent from the requirement established by the Zoning Ordinance.

**Major variance.** A variance request that deviates by more than [10] [20] [25 (most common)] [33] percent from the requirement established by the Zoning Ordinance and any requested variance to a riparian or floodplain management regulation.

**VISION CLEARANCE AREA.** A triangular area on a lot at the intersection of two (2) streets, or a street and a railroad right-of-way, or an alley and a street, --two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations.

For commercial/industrial access the minimum length of the two (2) legs for the clear vision triangle shall be measured from the corner intersection of the lot line and edge of access (i.e. curb, gravel or pavement) to a distance specified in these regulations.

The third side of the triangle is a line across the corner of a lot joining the ends of the other two (2) sides. Where the lot lines at intersections have rounded corners, the lot lines shall be extended in a straight line to a point of intersection.

Additional clear vision area may be required at intersections, particularly those intersections with acute angles less than ninety (90) degrees, as permitted by the Public Works Director, upon finding that additional sight distance is required (i.e. due to roadway alignment, etc.).

The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding three feet (3') in height, measured from the road surface.

Exceptions: The following are exempt from clear vision area compliance:

1. Tree trunk (clear of branches or foliage)
2. Street and Safety signage
3. Utility Poles
4. Street Lights

**YARD.** An open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this ordinance, and includes driveways.

**ZERO LOT LINE.** The location of a building on a lot in such a manner that one (1) or more of the building's sides rests directly on a lot line.

**ZERO LOT LINE SUBDIVISION.** A type of residential subdivision utilizing zero lot lines between dwelling units and providing for individual ownership of each lot.

## ARTICLE 2: BASIC PROVISIONS

### SECTION 2.1 COMPLIANCE WITH ORDINANCE PROVISIONS

- A. No building (or part of building) shall be erected, moved, or altered; and no lot shall be altered, unless the action conforms with the regulations herein specified for the zone in which it is located, except as otherwise provided therein.
- B. No permit for construction or alteration of any building shall be issued unless plans, specifications, and intended uses of such building has first been submitted and on file with the Community Development Department and conform in all respects with the provisions of this Ordinance.
- C. A building permit shall be issued within ten (10) days after application has been made if such use is in conformity with this ordinance.

**SECTION 2.2 ZONING APPLICATION** Prior to the construction, alteration, or change of use for any structure or lot a zoning application may be required, from the City Community Development Department.

**SECTION 2.3 TIME LIMIT ON A "ZONING APPLICATION"** Authorization of a zoning application shall be void after one (1) year unless a building permit has been obtained and substantial construction has taken place. However, the Community Development Director may extend authorization for an additional period not to exceed one (1) year upon request by the applicant or property owner.

**SECTION 2.4 ESTABLISHMENT OF ZONING DISTRICTS AND OVERLAY DESIGNATIONS** This ordinance hereby establishes the following land use zoning districts and overlay designations. Overlay designations are subordinate to the primary zoning district. They are as follows:

<u>ZONE</u>	<u>DESIGNATION</u>
Single-family Residential	R-1
Multiple-family Residential	R-2
Planned Residential Development	R-3
Corridor Commercial	C-1
Downtown Commercial	C-2
Community Commercial	C-3
Neighborhood Commercial	NC
Mixed Use Employment	MUE
Industrial	I
Open Space/Public Facilities	OS/PF
Airport Development	A/D

[Mixed Use Employment (MUE) Added by Ordinance No. 890, Passed by Council on September 13, 2016.]

<u>OVERLAY</u>	<u>DESIGNATION</u>
Flood Hazard	FH
Medical Overlay	MO
Airport Overlay	AO
Master Planned Community Overlay	MPC

**SECTION 2.5 LOCATION OF ZONES.** The boundaries of the zones listed in this Ordinance are indicated on the Madras Zoning Map, which is hereby adopted by reference. The boundaries shall be modified in accordance with zone map amendments pursuant to this section and shall be adopted by reference.

**SECTION 2.6 ZONING MAP.**

- A. The official zoning map is maintained at the Madras City Hall. Amendments to this map shall be reflected as soon as practicable after adoption by the City Council.
- B. Due to the wide distribution of copies of this Ordinance, amendments to the zoning map or text of this Ordinance may not be able to be reflected in each and every copy. The official Ordinance map shall be maintained in the Madras City Hall.

**SECTION 2.7 ZONING DISTRICT BOUNDARIES.** Unless otherwise specified, Zoning District Boundaries are lines, which may also be identified as lot lines, center lines of streets, alleys, canal or railroad right-of-ways, water courses, ridges or rimrocks, other readily recognizable or identifiable natural features. Whenever any uncertainty exists as to the boundary of a zone as shown on the Zoning Map, the following regulations shall control:

- A. Where a zoning district boundary line is indicated as following a street, alley, canal or railroad right-of-way, it shall be construed as following the centerline of such right-of-way.
- B. Where a zoning district boundary line follows or approximately coincides with a section, lot or property ownership line, it shall be construed as following such line.
- C. If a lot is split with two (2) or more zoning district boundaries, the primary or prominent (which covers a majority of the lot) zoning district shall be the governing zone. The Community Development Director shall determine the governing zone.

**SECTION 2.8 INTERPRETATION.**

- A. Purpose Statements. Any purpose statements included in this Ordinance are only for context and should not be construed as independent approval criteria requiring findings.
- B. Conflicting Standards. Where the provisions of a zoning standard conflict with comparable standards described in any other ordinance, resolution or regulation, the provisions of the applicable zoning district shall govern.

ARTICLE 3: LAND USE ZONES

SECTION 3.1 SINGLE FAMILY RESIDENTIAL (R-1).

A. PERMITTED USES.

1. Single-family dwellings shall have a minimum of a 1-car garage, which is architecturally integrated with and has an exterior similar to the dwelling.
2. Duplexes shall have a minimum of a 1-car garage for each unit, which is architecturally integrated with and has an exterior similar to the dwelling unit.
3. Manufactured Homes shall have a minimum of a 1-car garage, which is architecturally integrated with and has an exterior similar to the dwelling unit. (See Section 3.3)
4. Public parks, recreation areas, and community centers (Subject to Site Plan Review)
5. Accessory structures under 950 sq. ft (Shipping containers or the like are not allowed)
6. Day Care (1-5 children)
7. Model home shall be allowed only after construction plans have been approved by the City Public Works Director; occupancy and use is prohibited until documentation has been received by the City Public Works Director that the utilities have been connected.

B. CONDITIONAL USES. (Subject to Site Plan Review)

1. Home occupations (See Section 3.1.2) (Planning Commission Review)
2. Churches
3. Public buildings, such as library, fire station, museum, schools
4. Public utilities; except for communication facilities
5. Lodge or civic organizations
6. Medical and dental clinics, hospitals, sanitariums, rest homes, homes for the aged, nursing homes or convalescent homes.
7. Day Care (over 5 children)

8. Accessory structures over 950 sq. ft. (shipping containers or the like are not allowed)
9. Bed and Breakfast (see Section 3.1.1)
10. Residential Care Facilities (Planning Commission Review)
11. Residential Home Facilities (Planning Commission Review)

**C. AREA REQUIREMENTS.** The minimum lot size requirements are as follows:

1. For platted lots before the enactment of Ordinance No. 252 (each structure must meet the setback requirements from property lines in order to be allowed):
  - a. One Single-family dwelling per lot; or
  - b. One Duplex per lot; or
2. Lots not already platted prior to [date/ordinance no.] and non-platted areas annexed to the City following enactment of City of Madras Ordinance No. 252 shall have a minimum lot size as follows:
  - a.. One Single-family dwelling per lot -- 7,500 square feet
  - b.. Duplex -- 8,000 square feet for the first two (2) units, plus 2,000 square feet for each additional dwelling unit; or

**D. SETBACK REQUIREMENTS.** The minimum setback requirements for structures from property lines shall be as follows:

1. Front Setback. The minimum depth of a proposed structure from the front setback shall be twelve (12') feet from the property boundary line; or existing public easement, if abutting the front property line.
2. Side and Rear Setbacks. The minimum side and rear setbacks for any proposed structure shall be five feet (5') from the property line.
3. Corner Setback for a lot with more than one (1) property line abutting a street - proposed structure(s) shall be twelve feet (12') from the property lines.

**E. HEIGHT OF BUILDING.** No primary or accessory building shall exceed a height of thirty-five feet (35') when measured from the ground to the peak of the roof.

**F. OFF-STREET PARKING REGULATIONS.**

1. Dwellings. Two (2) parking spaces shall be provided on each lot for each dwelling, multiple dwelling unit or manufactured home.
2. All Other Uses. Refer to Table 4.5-1 (Required Vehicle Parking)

**G. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City sewer system. Where the structure is within three hundred feet (300') of an existing City sewer.

**H. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City water system unless authorized by the City for connection to an adjoining water system.

**I. FLOODPLAIN.** Any structure proposed to be located in the floodplain must meet Federal Emergency Management Agency (FEMA) and Zoning Ordinance regulations.

**J. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
3. Not be able to see source of light, or light reflective, or amplifying device from outside property line.
4. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
5. Lighted poles shall not exceed twenty feet (20') in height.

**K. LANDSCAPING.**1. Dwelling:

- a. New Construction - landscaping is required on the front and side portions of the lot adjacent to the dwelling or structure. The developer is required to put up security in an amount established by the City's fee schedule to the City Finance Department for landscaping prior to obtaining the building permit for the dwelling or structure. Once the landscaping has been completed, the City's Finance Department shall release the bond back to the developer. The developer has one (1) year from the date of final inspection to complete landscaping the lot.
- b. Existing dwelling - the existing landscaping (lawn, flowers, trees, shrubs, etc.) shall be maintained and kept in healthy condition. If the yard(s) are left to weeds and noxious vegetation the City shall enact 4-26 (Nuisance Ordinance) of the City Code.

2. Duplex:

- a. New Construction - landscaping is required on the front and side portion of the lot adjacent to the duplex is required. The developer is required to put up put up security in an amount established in the City's fee schedule to the City Finance Department for landscaping prior to obtaining the building permit for the dwelling unit. Once the landscaping has been completed, the City's Finance Department shall release the bond back to the developer. The developer has one (1) year from the date of final inspection to complete landscaping the lot.
- b. Landscaping around the perimeter of the development with a combination of lawn, trees, shrubs, flower beds, ornamental yards, etc. The vegetation used to create the landscaped area shall be maintained and kept in a healthy condition. If the landscaping is not maintained and goes to weeds and noxious vegetation the City shall enact 4-26 (Nuisance Ordinance) of the City Code.
- c. Shared areas. Usable outdoor recreation space shall be provided for the shared use of residents in any residential development, as follows:
  - i. Units with one (1) or two (2) bedrooms: 200 square feet of lawn per unit.
  - ii. Units with three (3) or four (4) bedrooms: 400 square feet of lawn per unit.

- d. Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.

## **L. ACCESSORY STRUCTURE DESIGN STANDARDS.**

### **1. PURPOSE:**

In an effort to protect and enhance the existing and future residential character of the City of Madras, the City Council has adopted Design Standards for Accessory Structures. The Design Standards are intended to ensure Accessory Structures are compatible with existing residential development and neighborhoods by:

- A. Ensuring each dwelling has adequate storage for one vehicle on private property.
- B. Ensuring Accessory Structures are similar to the existing form of residential development in the City.

### **2. APPLICABILITY:**

The Accessory Structure Design Standards shall apply to all Accessory Structures that require a building permit and shall be applied during the review of building permits by the City. Greenhouses are not subject to the Accessory Structure Design Standards.

### **3. ESTABLISHMENT:**

Accessory structures shall be established in the following manner:

- A. No accessory structure is permitted on any lot unless such lot has a principal permitted use located thereon.
- B. Building permits are required for all Accessory Structures as determined by the Jefferson County Building Official.

### **4. DESIGN STANDARDS:**

All Accessory Structures shall meet the following design features:

#### **A. Garage Doors.**

1. Where the dwelling on the property does not have at least a one-car garage, the first Accessory Structure shall be fully enclosed with a garage door and sufficiently sized to at least one-vehicle.

2. Where the dwelling on the property has at least a one-car garage, which may be an Accessory Structure, must have three exterior walls. These walls must have exterior siding similar to the siding of the dwelling on the property. A garage door is not required.

**B. Exterior Paint.** Accessory Structures shall have similar base and trim color as the dwelling on the property.

**C. Siding.** Accessory Structures shall have similar siding material as the dwelling on the property.

**D. Building Height.** The maximum height of an Accessory Structure is based upon the height of the dwelling of the property.

1. Accessory Structures on a property with a single-story dwelling shall not exceed 125% of the height of the single-story dwelling.
2. Accessory Structures on a property with a multiple-story dwelling shall not exceed the height of the multiple-story dwelling. In no case shall Accessory Structures exceed 35 feet.

#### **5. EXCEPTION TO DESIGN STANDARDS:**

**A. Process:**

An exception to the Accessory Structure Design Standards may be approved by the Madras Planning Commission as provided by Section 9.3(A) of this Ordinance. The Planning Commission shall conduct a quasi-judicial hearing in accordance with the provisions of Article 9 of this Ordinance. The Planning Commission's decision may be appealed to the Madras City Council in accordance with Section 9.22 of this Ordinance.

**B. Approval Criteria:**

The Planning Commission shall grant an exception to the Accessory Structure Design Standards based on the following criteria:

1. Consistent with the purpose of the Accessory Structure Design Standards.
2. At least a one-car garage is provided on the property.
3. The location, size, design characteristics of the proposed Accessory Structure shall have minimal adverse impact on the livability of the permitted development in the surrounding area.

4. The proposed Accessory Structure is aesthetically pleasing and functional and relates harmoniously to the natural environment and existing development.
5. Minimizing visual impacts and preserving natural features to the greatest extent practical.
6. The requested exception is the minimum deviation necessary.

**SECTION 3.1.1 BED AND BREAKFAST.** Purpose: to allow for the inclusion of Bed and Breakfast establishments within residential zones of the City.

A. Application Requirements:

1. Narrative describing the bed and breakfast operation, the number of employees, any equipment or amenities not normally associated with a dwelling, and how the proposal satisfies all applicable standards of this Zoning Ordinance.
2. Plot plan showing:
  - a. The location of the bed and breakfast and any accessory structure(s) from the property lines;
  - b. Parking spaces for guests(s) and resident(s) of the dwelling
  - c. Landscaping, in place or projected improvement.
3. Sign: a sign application must be submitted and approved through the Community Development Department.

B. Standards:

1. Owner occupied single-family dwelling.
2. Provides up to five (5) guest rooms without individual kitchens.
3. Temporary sleeping accommodations for paying guests not to exceed 30 consecutive days.
4. Meal service shall be included as a part of the B&B establishment.
5. Signs: sign application must be approved through the Community Development Department.
6. Must meet all three (3) requirements in Section 3.1.1(A)(1-3).
7. Plot plan showing location of existing dwelling and parking for guests and residents.
8. Parking required. Two (2) spaces, plus one (1) space per guest room. Utilizing on-street parking shall not infringe on other property owners in the area of the B&B.

9. Shall comply with Jefferson County Health Department and provide a copy of the certificate to the Community Development Department.
10. Shall comply with Fire and Safety regulations through the Jefferson County Community Development Building Codes and the Jefferson County Fire Department.
11. Shall comply with and obtain any building permits required from the Jefferson County Community Development Department (Building Division).
12. Sign: one (1) sign is allowed, which must comply with the City's sign ordinance.
13. A business license issued by the City shall be obtained prior to commencement of the business.
14. Expansion of existing dwelling to accommodate the B&B shall be limited to 20% of the existing floor area.
15. The proposal will not change the residential character of the neighborhood
16. There is sufficient parking [1 per room] for guests of the bed and breakfast and the proposal will not substantially increase traffic in the neighborhood.
17. The proposal will not violate any provisions of applicable covenants, conditions and restrictions (if they exist) governing the property.
18. The hours of operation are consistent with the residential character of the neighborhood.
19. The proposal is consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance.
20. The proposal will not unreasonably interfere with other uses permitted in the residential zone in which the property is located.

**SECTION 3.1.2 HOME OCCUPATION.** Purpose: To conduct a lawful occupation by the resident(s) of the dwelling.

**A. Application Requirements:**

1. Narrative describing the home occupation, the number of employees, any equipment not normally associated with a dwelling, and how the proposal satisfies all applicable standards of this Zoning Ordinance
2. Plot plan required showing:
  - a. The location of the dwelling and accessory structure(s) from the property lines;
  - b. Parking spaces for employee(s) and resident(s) of the dwelling
  - c. Landscaping, in place or projected improvement.
3. Sign: a sign application must be submitted and approved through the Community Development Department.

**B. Criteria:**

1. Home occupations must be operated in the primary dwelling or accessory structure on the same lot by the resident(s) of the dwelling.
2. The home occupation has no more than three full time equivalent (40 hours per week) employees including occupants of the dwelling engaged in the home occupation.
3. The home occupation will not change the residential character of the neighborhood.
4. The home occupation will not substantially increase traffic in the residential neighborhood.
5. The hours of operation are consistent with the residential character of the neighborhood.
6. The home occupation will not unreasonably interfere with other uses permitted in the residential zone in which the property is located.
7. The proposal is consistent with the Comprehensive Plan.

8. Taking into account the location, size, design, and operation characteristics of the proposal, the home occupation will not impose any adverse impact on the livability, value, and/or development opportunities of abutting properties and the surrounding area.

**SECTION 3.2 MULTIPLE FAMILY RESIDENTIAL (R-2).****A. PERMITTED USES.**

1. Single-family dwellings shall have a minimum of a 1-car garage, which is architecturally integrated with and has an exterior similar to the dwelling.
2. Boarding houses. (Subject to Site Plan Review)
3. Multiple-family dwellings of two (2) or more units shall have a minimum of a 1-car garage for each unit, which is architecturally integrated with and has an exterior similar to the dwelling unit (with site plan review).
4. Manufactured Homes shall have a minimum of a 1-car garage, which is architecturally integrated with and has an exterior similar to the dwelling unit (see Section 3.3)
5. Day Care (1-5 children)
6. Public Parks, recreation areas, and community centers (Subject to Site Plan Review)
7. Accessory Structures under 950 sq. ft. (Shipping containers or the like are not allowed).
8. Model home shall be allowed only after construction plans have been approved by the Public Works Director; occupancy and use is prohibited until documentation has been received by the Public Works Director that the utilities have been connected.

**B. CONDITIONAL USES.** (Subject to Site Plan Review)

1. Churches.
2. Public buildings, schools and libraries.
3. Governmental uses, such as City Hall, fire station, police station, and offices for governmental agencies.
4. Lodge for civic or fraternal organizations.
5. Necessary public utilities and public services with safeguards against harm to adjacent or abutting residential property as required by the City Council; except for communication facilities.
6. Home Occupations (see Section 3.1.2) (Planning Commission Review)
7. Day Care (over 5 children)

8. Apartments
9. Accessory structures over 950 sq. ft. (Shipping containers or the like are not allowed)
10. Bed and Breakfasts (see Section 3.1.1)
11. Residential Care Facilities (Planning Commission Review)
12. Residential Home Facilities (Planning Commission Review)

**C. AREA REQUIREMENTS.** Minimum lot size requirements area:

1. For platted lots before the enactment of Ordinance No. 252 (each structure must meet the setback requirements from property lines in order to be allowed):
  - a. One Single-family dwelling per lot; or
  - b. One Duplex per lot; or
  - c. Multiple-family dwellings --10,000 square feet for the first two (2) units, plus 2,000 square feet for each additional dwelling unit.
2. Lots not already platted at the time of enactment of Ordinance No. 252 and non-platted areas annexed to the City following enactment of this Ordinance shall have a minimum lot size as follows:
  - a. One Single-family dwelling per lot -- 7,500 square feet; or
  - b. Duplex -- 8,000 square feet for the first two (2) units, plus 2,000 square feet for each additional dwelling unit; or
  - c. Multiple-family units --10,000 square feet for the first two (2) units, plus 2,000 square feet for each additional dwelling unit.

**D. SETBACK REQUIREMENTS.** The minimum setback requirements for structures from property lines shall be as follows:

1. Front Setback. The minimum depth of a proposed structure from the front setback shall be twelve (12') feet from the property boundary line; or existing public easement, if abutting the front property line.
2. Side and Rear Setbacks. The minimum side and rear setbacks for any proposed structure shall be five feet (5') from the property line.

3. Corner Setback for a lot with more than one (1) property line abutting a street - proposed structures shall be twelve feet (12') from these property lines.

**E. HEIGHT OF BUILDING.** No primary or accessory structure shall exceed a height of thirty-five feet (35') when measured from the ground to the peak of the roof.

**F. OFF-STREET PARKING REGULATIONS.**

1. Dwellings. Two (2) parking spaces shall be provided on each lot for each dwelling, or manufactured home.
2. All Other Uses, including duplexes, triplexes and apartments refer to Table 4.5-1 (Required Vehicle Parking).

**G. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City sewer system where the structure is within three hundred feet (300') of an existing City sewer.

**H. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy shall be connected to the City water system unless authorized by the City for connection to an adjoining water system.

**I. FLOODPLAIN.** Any structure proposed to be located in the floodplain must meet Federal Emergency Management Agency (FEMA) and Zoning Ordinance regulations.

**J. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.

3. Not be able to see source of light, or light reflective or amplifying device from outside property line.
4. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
5. Lighted poles shall not exceed twenty feet (20') in height.

#### K. LANDSCAPING.

##### 1. Dwelling:

- a. New Construction - landscaping is required on the front and side portions of the lot adjacent to the dwelling or structure. The developer is required to put up security in an amount established by the City's fee schedule to the Finance Department for landscaping prior to obtaining the building permit for the dwelling or structure. Once the landscaping has been completed, the Finance Department shall release the bond back to the developer. The developer has one (1) year from the date of final inspection to complete landscaping the lot.
- b. Existing dwelling - the existing landscaping (lawn, flowers, trees, shrubs, etc.) shall be maintained and kept in healthy condition. If the yard(s) are left to weeds and noxious vegetation the City shall enact 4-26 (Nuisance Ordinance) of the City Code.

##### 2. Duplex, Triplex, or Apartments:

- a. New Construction - landscaping is required on the front and side portion of the lot adjacent to the duplex is required. The developer is required to put up security in an amount established in the City's fee schedule to the Finance Department for landscaping prior to obtaining the building permit for the dwelling unit. Once the landscaping has been completed, the Finance Department shall release the bond back to the developer. The developer has one (1) year from the date of final inspection to complete landscaping the lot.
- b. Landscaping around the perimeter of the development with a combination of lawn, trees, shrubs, flower beds, ornamental yards, etc. The vegetation used to create the landscaped area shall be maintained and kept in a healthy condition. If the landscaping is not maintained and goes to weeds and noxious vegetation the City shall enact 4-26 (Nuisance Ordinance) of the City Code.
- c. Shared areas. Usable outdoor recreation space shall be provided for the shared use of residents in any residential development, as follows:

- i. Units with one or two (2) bedrooms: 200 square feet of lawn per unit.
  - ii. Units with three (3) or more bedrooms: 300 square feet of lawn per unit.
- d. Storage. Areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc.

## **L. ACCESSORY STRUCTURE DESIGN STANDARDS.**

### **1. PURPOSE:**

In an effort to protect and enhance the existing and future residential character of the City, the City Council has adopted Design Standards for Accessory Structures. The Design Standards are intended to ensure Accessory Structures are compatible with existing residential development and neighborhoods by:

- A. Ensuring each dwelling has adequate storage for one vehicle on private property.
- B. Ensuring Accessory Structures are similar to the existing form of residential development in the City.

### **2. APPLICABILITY:**

The Accessory Structure Design Standards shall apply to all Accessory Structures that require a building permit and shall be applied during the review of building permits by the City. Greenhouses are not subject to the Accessory Structure Design Standards.

### **3. ESTABLISHMENT:**

Accessory structures shall be established in the following manner:

- A.. No accessory structure is permitted on any lot unless such lot has a principal permitted use located thereon.
- B. Building permits are required for all Accessory Structures as determined by the Jefferson County Building Official.

### **4. DESIGN STANDARDS:**

All Accessory Structures shall meet the following design features:

- A. Garage Doors.

1. Where the dwelling on the property does not have at least a one-car garage, the first Accessory Structures shall be fully enclosed with a garage door and sufficiently sized to at least one-vehicle.
  2. Where the dwelling on the property has at least a one-car garage, which may be an Accessory Structure, must have three exterior walls. These walls must have exterior siding similar to the siding of the dwelling on the property. A garage door is not required.
- B. Exterior Paint. Accessory Structures shall have similar base and trim color as the dwelling on the property.
- C. Siding. Accessory Structures shall have similar siding material as the dwelling on the property.
- D. Building Height. The maximum height of an Accessory Structure is based upon the height of the dwelling of the property.
1. Accessory Structures on a property with a single-story dwelling shall not exceed 125% of the height of the single-story dwelling.
  2. Accessory Structures on a property with a multiple-story dwelling shall not exceed the height of the multiple-story dwelling. In no case shall Accessory Structures exceed 35 feet.

**5. EXCEPTION TO DESIGN STANDARDS:**

A. Process:

An exception to the Accessory Structure Design Standards may be approved by the Madras Planning Commission as provided by Section 9.3(A) of this Ordinance. The Planning Commission shall conduct a quasi-judicial hearing in accordance with the provisions of Article 9 of this Ordinance. The Planning Commission's decision may be appealed to the City Council in accordance with Section 9.22 of this Ordinance.

B. Approval Criteria:

The Planning Commission shall grant an exception to the Accessory Structure Design Standards based on the following criteria:

1. Consistent with the purpose of the Accessory Structure Design Standards.
2. At least a one-car garage is provided on the property.

3. The location, size, design characteristics of the proposed Accessory Structure shall have minimal adverse impact on the livability of the permitted development in the surrounding area.
4. The proposed Accessory Structure is aesthetically pleasing and functional and relates harmoniously to the natural environment and existing development.
5. Minimizing visual impacts and preserving natural features to the greatest extent practical.
6. The requested exception is the minimum deviation necessary.

**SECTION 3.3 MANUFACTURED HOMES.**

- A. Manufactured homes meeting the following criteria are allowed as a permitted use in both the R-1 and R-2 Zones.
1. The manufactured home must possess an insignia of compliance, tag, or other documentation indicating conformance with state and federal standards governing manufactured homes.
  2. Manufactured homes shall have horizontal siding or other siding materials, similar to that presently used on houses constructed under the Uniform Building Code (UBC).
  3. A fire resistant composition or wood shingle or shake roof, at a minimum slope of two inches (2") in twelve inches (12") (sixteen percent - 16%).
  4. A manufactured home shall possess skirting, which in design, color, and texture, appears to be an integral part of the exterior wall of the manufactured home.
  5. Manufactured homes located:
    - a. On a lot, not within a Manufactured Dwelling Park shall:
      - i. Shall be at least twenty-four feet (24') wide, with exterior dimensions enclosing a space of not less than eight-hundred sixty-four square feet (864 sq. ft).
      - ii. be attached to permanent foundations. Foundations, tie-downs, or other supports shall be provided to withstand the specified horizontal, up-lift and overturning wind forces on a manufactured home, based on accepted engineering design standards, as approved by the Oregon State Department of Commerce.
      - iii. All wheels and towing assemblies shall be removed.
      - iv. Must meet all Federal Emergency Management Agency (FEMA) standards if placed in the floodplain.
      - v. Shall have a minimum of a 1-car garage
    - b. Within a manufactured dwelling park shall:
      - i. Comply with State Building Codes for setup of the dwelling in the manufactured dwelling park;
      - ii. All wheels and towing assemblies shall be removed;

- iii. Must meet all Federal Emergency Management Agency (FEMA) standards if placed in the floodplain.
- 6. Comply with all other requirements in the zoning district in which the manufactured dwelling will be located.

**SECTION 3.4 PLANNED RESIDENTIAL DEVELOPMENT (R-3).**

**A. PURPOSE:** The intent of the R-3 Zone is to recognize and enhance areas of scenic quality and view amenities.

1. Allow for flexibility in project design while providing for essential development standards;
2. Encourage development, which is sensitive to the natural topography of the site, minimizes alterations to the land, and maintains and enhances significant natural resources;
3. Provide for projects, which are compatible with surrounding developments;
4. Ensure that the project's circulation system is designed to be efficient and well integrated with the City's overall circulation system and shall not dominate the project.

**B. PERMITTED USES:** The following uses are permitted outright in the Planned Residential Development (R-3) Zone:

1. Single family dwelling (does not include manufactured dwellings) shall have at a minimum a 1-car garage, which shall be attached to the dwelling and is architecturally integrated with and has an exterior similar to the dwelling.
2. Accessory structure(s) under 950 sq. ft. (Shipping containers or the like are not allowed)
3. Day Care (1-5 children)
4. Public parks, recreation areas and community centers (subject to site plan)
5. Model home shall be allowed only after construction plans have been approved by the Public Works Director; occupancy and use prohibited until documentation has been received by the Public Works Director that the utilities have been connected.

**C. CONDITIONAL USES** (Subject to Site Plan)

1. Schools
2. Day Care (over 5 children)
3. Accessory structure over 950 sq. ft. (Shipping containers or the like are not allowed)

4. Bed and Breakfasts (see Section 3.1.1)
5. Home Occupation (see Section 3.1.2) (Planning Commission Review)
6. Residential Home Facility in accordance with ORS 197.665 (i.e., adult foster care) (Planning Commission Review)

**D. LOT SIZE:** The minimum lot size in the R-3 Zone shall be a minimum of 6,000 square feet.

1. Each lot shall have a minimum street frontage of 50 feet except for lots fronting on a cul-de-sac turn around upon which said frontage may be reduced to 40 feet. This frontage shall be measured at the front yard setback.

**E. SETBACK REQUIREMENTS:** The minimum setback requirement for structures from property lines shall be as follows:

1. Front Setback. The minimum depth of a proposed structure from the front setback shall be twelve (12') feet from the property boundary line; or existing public easement, if abutting the front property line.
2. Side and Rear Setbacks. The minimum side and rear setbacks for any proposed structure shall be five feet (5') from the property line.
3. Corner Setback for a lot with more than one (1) property line abutting a street - proposed structure(s) shall be twelve feet (12') from these property lines.

**F. HEIGHT OF BUILDING:** No building shall exceed a height of 35 feet when measured from the ground to the peak of the roof.

**G. OFF-STREET PARKING AND LOADING:** Off-street parking and loading within the R-3 Zone shall be provided in accordance with the provisions of Article 4 (Section 4.4, Off-Street Parking and Loading).

**H. FLOODPLAIN.** Any structure proposed to be located in the floodplain must meet Federal Emergency Management Agency (FEMA) and Zoning Ordinance regulations.

**I. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual

environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
3. Not be able to see source of light, or light reflective or amplifying device from outside property line.
4. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
5. Lighted poles shall not exceed twenty feet (20') in height.

**J. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City sewer system; or where the structure is within three hundred feet (300') of an existing City sewer.

**K. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy shall be connected to the City water system unless authorized by the City for connection to an adjoining water system.

**L. LANDSCAPING.**

1. Dwelling:
  - a. New Construction - landscaping is required on the front and side portions of the lot adjacent to the dwelling or structure. The developer is required to put up security in an amount established by the City's fee schedule to the Finance Department for landscaping prior to obtaining the building permit for the dwelling or structure. Once the landscaping has been completed, the Finance Department shall release the bond back to the developer. The developer has one (1) year from the date of final inspection to complete landscaping the lot.
  - b. Existing dwelling - the existing landscaping (lawn, flowers, trees, shrubs, etc.) shall be maintained and kept in healthy condition. If the yard(s) are left to weeds and noxious vegetation the City shall enact 4-26 (Nuisance Ordinance) of the City Code.

**M. ACCESSORY STRUCTURE DESIGN STANDARDS.****1. PURPOSE:**

In an effort to protect and enhance the existing and future residential character of the City, the City Council has adopted Design Standards for Accessory Structures. The Design Standards are intended to ensure Accessory Structures are compatible with existing residential development and neighborhoods by:

- A. Ensuring each dwelling has adequate storage for one vehicle on private property.
- B. Ensuring Accessory Structures are similar to the existing form of residential development in the City.

**2. APPLICABILITY:**

The Accessory Structure Design Standards shall apply to all Accessory Structures that require a building permit and shall be applied during the review of building permits by the City. Greenhouses are not subject to the Accessory Structure Design Standards.

**3. ESTABLISHMENT:**

Accessory structures shall be established in the following manner:

- A. No accessory structure is permitted on any lot unless such lot has a principal permitted use located thereon.
- B. Building permits are required for all Accessory Structures as determined by the Jefferson County Building Official.

**4. DESIGN STANDARDS:**

All Accessory Structures shall meet the following design features:

- A. Garage Doors.
  - 1. Where the dwelling on the property does not have at least a one-car garage, the first Accessory Structures shall be fully enclosed with a garage door and sufficiently sized to at least one-vehicle.
  - 2. Where the dwelling on the property has at least a one-car garage, which may be an Accessory Structure, must have three exterior walls. These walls must

have exterior siding similar to the siding of the dwelling on the property. A garage door is not required.

- B. Exterior Paint. Accessory Structures shall have similar base and trim color as the dwelling on the property.
- C. Siding. Accessory Structures shall have similar siding material as the dwelling on the property.
- D. Building Height. The maximum height of an Accessory Structure is based upon the height of the dwelling of the property.
  - 1. Accessory Structures on a property with a single-story dwelling shall not exceed 125% of the height of the single-story dwelling.
  - 2. Accessory Structures on a property with a multiple-story dwelling shall not exceed the height of the multiple-story dwelling. In no case shall Accessory Structures exceed 35 feet.

#### **5. EXCEPTION TO DESIGN STANDARDS:**

##### A. Process:

An exception to the Accessory Structure Design Standards may be approved by the Madras Planning Commission as provided by Section 9.3(A) of this Ordinance. The Planning Commission shall conduct a quasi-judicial hearing in accordance with the provisions of Article 9 of this Ordinance. The Planning Commission's decision may be appealed to the City Council in accordance with Section 9.22 of this Ordinance.

##### B. Approval Criteria:

The Planning Commission shall grant an exception to the Accessory Structure Design Standards based on the following criteria:

- 1. Consistent with the purpose of the Accessory Structure Design Standards.
- 2. At least a one-car garage is provided on the property.
- 3. The location, size, design characteristics of the proposed Accessory Structure shall have minimal adverse impact on the livability of the permitted development in the surrounding area.
- 4. The proposed Accessory Structure is aesthetically pleasing and functional and relates harmoniously to the natural environment and existing development.

5. Minimizing visual impacts and preserving natural features to the greatest extent practical.
6. The requested exception is the minimum deviation necessary.

**SECTION 3.5.1 CORRIDOR COMMERCIAL (C-1), DOWNTOWN COMMERCIAL (C-2), AND COMMUNITY COMMERCIAL (C-3).**

**A. USES.**

1. Types of uses. For the purposes of this chapter, there are three types of uses:
  - a. A permitted use (P) is a use which is permitted outright subject to site plan approval and to all of the applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Section 9.28.
  - b. A conditional use (C) is a use the approval of which is at the discretion of the Planning Commission and subject to site plan approval. The approval process and criteria are set forth in Article 6. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Section 9.28.
  - c.. A prohibited use (X) is one which is expressly prohibited in the zone. In addition, uses not specifically listed as permitted or conditional in Table 3.5-1 or deemed to be similar uses pursuant to Section 9.28 are also prohibited.
2. Use Table. A list of permitted, conditional and prohibited uses in commercial zones is presented in Table 3.5-1.

Table 3.5-1: Uses in the C-1, C-2 and C-3 Zones

Uses	Corridor Commercial (C-1)	Downtown Commercial (C-2)	Community Commercial (C-3)
<b>Commercial</b>			
Clubs and lodges, similar uses	P	P	P
Eating and drinking establishments, including drive-through/drive-ins (1)	P	X	C
Eating and drinking establishments, excluding drive-through/drive-ins	P	P	P
Entertainment uses, including theaters, indoor amusement uses such as bowling alleys, and similar uses	P	P	P
Office uses including medical and dental offices, clinics and laboratories	P	P	P
Retail trade and services, except vehicle-oriented	P/C (5)	P/C (5)	P/C (5)
Retail trade and services, vehicle-oriented (2)	P/C (5)	X	C (5)
Personal and professional services, including laundromats, dry cleaners, barber shops and salons, bank and financial institutions, and similar uses (1)	P	P	P
Motels, hotels	P	P	P
Recreational vehicle parks subject to Section 3.5.1 (D)	C	X	X
Veterinary clinics (3)	C	X	C
Mortuary, crematorium	P	C	P
Commercial storage facilities (4)	C	X	X
Repair Services	P	C (6)	P
Light manufacture (e.g. small-scale crafts, electronic equipment, furniture, similar goods) when in conjunction with retail	C	C	C
Bakeries and similar food processing where goods are to be sold primarily on-site and to the general public	P	C	P
Bulk fuel facilities	X	X	X
Temporary Uses subject to Section 3.5.1 (C)	P	P	P
Medical Marijuana Dispensary [Added by Ord. No. 871, Passed by Council 04-28-2015]	P (7)	P (7)	P (7)
<b>Public and Institutional</b>			
Fire, police, or other government buildings	P	P	P
Libraries, museums, community centers, concert halls and similar uses	P	P	P
Public parking lots and garages	P	P	P
Public parks and recreational facilities	P	P	P
Schools (public and private)	C	C	C
Utilities, public and private (except towers)	P	P	P
Churches and places of worship	P	P	P
<b>Residential</b>			
Mixed use residential subject to Section 3.5.1 (B)	C	C	C
Dwellings (existing as of July 25, 2006)	P	P	P

## Notes:

- i. Drive-through or drive-in facilities are subject to the standards in Section 3.5.1 (O) 5.
- ii. "Vehicle oriented retail trade and services" refers to those uses where automobiles and/or other motor vehicles are an integral part of the use, including, but not limited to, businesses that repair, sell, rent, store, or service automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, and similar vehicles and equipment. Those retail uses selling automobile parts and similar items are not considered vehicle oriented uses provided no vehicle servicing is conducted on-site.
- iii. Veterinary Clinics - Boarding of animals in conjunction with a veterinary clinic may be approved provided that the applicant can show that odor, dust, noise and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses. Fencing and/or vehicular access and loading restrictions may be required to protect surrounding properties.
- iv. Commercial storage facilities may include areas designed for the outdoor storage of boats, RVs and similar items provided the applicant can show that the facility will not create a nuisance to surrounding properties and uses. All commercial storage activities not conducted within an enclosed building shall be screened from view of all adjacent properties and adjacent streets by a sight obscuring fence, landscaping or similar means. The sight obscuring fence shall be subject to the provisions of Section 4.3.
- v. Large Scale Buildings over 30,000 square feet are subject to Conditional Use approval by the Planning Commission.
- vi. No outdoor repair activity is permitted. Repair services are permitted only when conducted entirely indoors.
- vii. A Medical Marijuana Dispensary must meet the requirements of Section 3.14.

[Section 3.5.1, Subsection A, Item 2 (vii) added by Ordinance No. 871, Passed by Council on April 28, 2015.]

**B. MIXED USE RESIDENTIAL.** Residential uses (multiple-family dwellings) shall be permitted only when part of a mixed use development (residential with commercial or public/institutional uses) and subject to the following standards:

1. "Vertical" mixed use (housing above the ground floor) and "horizontal" mixed use (housing on the ground floor) developments may be permitted.
2. Within horizontal mixed use developments, residential uses shall be located behind commercial uses relative to the front lot line.

3. Access to residential uses shall not occupy more than twenty (20) feet or ten (10) percent (whichever is more) of frontage along the front lot line.

**C. TEMPORARY USES.** These uses may be seasonal or year and are for such activities as: mobile food vendors and sales of sunglasses, housewares, toys, crafts, vegetables and fruit stands. All temporary use permits are for business activities that are not located in a permanent structure that is built on a fixed foundation and would be commonly referred to as a building. All temporary uses must comply with State of Oregon health regulations and evidence of compliance (i.e. copy of permit, County Health Department Certificates, etc.) must be provided to the Community Development Department prior to issuance of a temporary use permit. The following requirements shall be met and complied with prior to starting of business (Seasonal or Year-long Temporary Use application required).

1. **Seasonal Temporary Uses.** This type of temporary use (and Seasonal Temporary Use Permit) is for a duration of not more than three (3) months (i.e. 90 consecutive days). To be eligible for a Seasonal Temporary Use Permit, the following information must be provided and conditions met and adhered to:
  - a. The address and/or location where the Seasonal Temporary Use activity will occur.
  - b. Property Owner's written authorization for the use of the property for the Seasonal Temporary Use.
  - c. Duration of Temporary Use, including starting date and time, and ending date and time.
  - d. Hours of operation.
  - e. Obtain a Business License issued by the City prior to business operation.
  - f. The Temporary Use activity and all structures are to be removed from authorized site at least once each day and at all times when the activity is not open for business, except for a one-time exception not to exceed seven (7) consecutive days as specifically authorized by the Community Development Director. For certain uniquely seasonal activities, like Christmas tree sales, 4<sup>th</sup> of July fireworks sales, the Community Development Director may allow a longer period.
2. **Year-long Temporary Uses.** This type of use (and Year-long Temporary Use Permit) is required for any qualified Temporary Use activity that will exceed three (3) months (90 consecutive days) duration. The Temporary Use activity and all structures, buildings, vehicles and any other support structure or equipment must be removed from the property (location of selling product) every evening and be absent from the site for a period of not less than six (6) consecutive hours.

The Year-long Temporary Use vendor must move around town and have a number of locations (no less than two) for the Temporary Use activity. No Year-long Temporary Use business activity can occur at the same location for more than 90 consecutive days without a 90 consecutive days absence from the same site before being allowed to return for another period not to exceed 90 consecutive days. To be eligible for a Year-long Temporary Use Permit, the following information must be provided and conditions met and adhered to:

- a. The address and/or location where the Year-long Temporary Use activity will occur.
  - b. Property owner's written authorization for the use of property for the Year-long Temporary Use.
  - c. Hours of operation.
  - d. Duration of Year-long Temporary Use, including starting date and time, and ending date and time.
  - e. Shall obtain a Business License issued by the City prior to conducting business.
  - f. All signage must comply with all state and local requirements.
  - g. No furniture (i.e. table and chairs), separate awnings, or tents are permitted.
3. Temporary Structures may be placed on a lot while constructing an office or building.

**D. RECREATIONAL VEHICLE PARKS.** - Purpose: to provide for recreational vehicle parks, which are suitable for the placement and occupancy of recreational vehicles for recreational purposes with the necessary amenities.

1. Requirements

- a. Recreational vehicle parks shall not be occupied by manufactured dwellings, except for one (1) dwelling (manufactured or conventional) for an on-site manager or care taker.
- b. Access shall be paved and have direct access onto a street.
- c. Site obscuring fencing or buffering of the RV park shall be provided.

- d. Entrance to the RV park shall be designed with an adequate parking area for those registering, or checking out without blocking access to the designated RV park spaces and will not cause congestion on adjacent streets.
- e. Lighting.
  - i. Structural exterior lighting shall not project directly into an abutting lot.
  - ii. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
  - iii. Not be able to see source of light, or light reflective or amplifying device from outside property line.
  - iv. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
  - v. Lighted poles shall not exceed twenty feet (20') in height.
- f. A dump station for discharging wastewater holding tanks shall be provided unless each space is equipped with a sewer connection.
- g. RV park spaces shall provide on-site electrical, dump station or sewer connection, and water hookups.
- h. Occupied RV park spaces shall not exceed 120 days by the same RV owner.
- i. Accessory uses in conjunction with the RV park may include laundry facilities, playground, and convenience store.

2. Regulations:

- a. No person shall establish or enlarge an RV Park without first obtaining the required approvals and permits as required by this Ordinance.
- b. The following regulations and statutes must be adhered to by any applicant for an RV park permit in addition to all requirements included in this Ordinance.
  - i. Oregon Revised Statutes regarding RV parks.
  - ii. Oregon State Health Division administrative rules regarding RV parks.
  - iii. Oregon State Building Codes regarding plans review and construction of the RV park.

- 3. Procedure: An application for RV Park approval must be included with the submittal of a Conditional Use Application.
  - a. A completed application for an RV Park and the applicable fee submitted;
  - b. An area map at a scale which clearly shows the general neighborhood, streets, existing structures and facilities, hazard areas, and other significant features in the area;
  - c. A map of the proposed site showing all existing landscape features, existing structures, existing utilities (water, sewer, power, etc.) and existing vegetation;
  - d. A preliminary drawing indicating the general layout and design of the project, prepared at a suitable scale, to clearly show all streets, property boundaries, walkways, proposed permanent structures and recreational areas, parking and storage areas, and other facilities. Include approximate dimensions, where appropriate.
  - e. A preliminary utility plan, indicating sewer and water lines, electric, gas, telephone, cable television, and storm water facilities.
  - f. A conceptual landscaping plan indicating all existing vegetation to be retained, all proposed landscaping features including trees, shrubs, grass, flowering plants, fences, berms, and open space.
  - g. Access approach for the RV park must be existing or approved by the governing jurisdiction.
  - h. The RV park is compatible with the adjacent neighborhood.
  - i. The RV park shall not adversely affect the neighborhood in which the RV park will be located.

**E. AREA REQUIREMENTS.** None.

**F. SETBACK REQUIREMENTS.**

- 1. Minimum Setback. None, except, structure(s) shall not be less than ten (10) feet from the property line where the commercial lot line(s) abuts residentially zoned parcels.

2. Maximum Setback. The maximum setback requirement applies only in the C-2 Downtown zone. The maximum allowable front yard setback in C-2 is five (5) feet. This standard is met when 100 percent of the front building elevation is placed no more than five (5) feet back from the front property line. On parcels with more than one building, this standard applies to the largest building. The setback standard may be increased when a usable public space with pedestrian amenities (e.g. extra-wide sidewalk, plaza, pocket park, outdoor dining area or seating area) is provided between the building and front property line. On through lots (lots with front and rear frontage on a street), this standard applies only to the designated front setback.

**G. HEIGHT OF BUILDING.**

1. Maximum Height. No commercial structure shall exceed a height of forty-five feet (45') without submitting a Variance Application and receiving prior authorization from the Planning Commission and/or the City Council.
2. Minimum Height. Within the C-2 zone, the minimum building height for building facades facing an arterial street shall be twenty (20) feet unless otherwise approved through the site plan approval process.

**H. PARKING REGULATIONS.** Shall meet the requirements of Table 4.5-1, in Section 4.5 and requirements of Sections 4.4 through 4.7 of the City's Zoning Ordinance and shall be reviewed as part of the site plan review.

**I. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy, it shall be connected to the City sewer system; or where the structure is within three-hundred feet (300') of an existing City sewer.

**J. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City water system unless authorized by the City for connection to any adjoining water system.

**K. FLOODPLAIN.** Any structure proposed to be located in the floodplain must meet Federal Emergency Management Agency (FEMA) and Zoning Ordinance regulations.

**L. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the

ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
3. Not be able to see source of light, or light reflective or amplifying device from outside property line.
4. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
5. Lighted poles shall not exceed twenty feet (20') in height.

**M. OUTDOOR STORAGE, TRASH COLLECTION AND LOADING AREAS.** The following standards are intended to reduce the impacts of outdoor storage, loading and operations areas on adjacent land uses.

1. Areas for truck parking and loading shall be screened by a combination of attractive structures and evergreen landscaping to minimize visibility from adjacent streets.
2. Outdoor storage, loading and operations areas shall be attractively screened from adjacent parcels and streets.
3. Outdoor storage, trash collection and/or compaction, loading or other such uses shall be located in the rear of the lot, where feasible.
4. Outdoor storage, HVAC equipment, trash collection, trash compaction and other service functions shall be incorporated into the overall site design. Views of these areas shall be screened from visibility from all property lines and separated from sidewalks and on-site pedestrian ways. Screening structures shall be made of the same materials as the principal structure.
5. Areas for the storage and sale of seasonal merchandise shall be permanently defined and screened with walls and/or fences. Materials, colors, and design of screening walls and/or fences shall conform to those used as in the principal structure. If such areas are to be covered, then the covering shall conform to the colors on the building.

6. Outdoor display and storage shall not encroach on any portion of a walkway, drive aisles or required parking spaces. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 30 feet of any internal pedestrian way.

#### **N. LANDSCAPING AND SCREENING**

1. Landscape plans shall be submitted with the site plan application and must receive approval.
2. All unused portions of the property shall be maintained with landscaping consisting of ground cover, or planted grass, shrubs, trees, flower beds, bark dust, or other suitable landscaping.
3. Property owner shall be responsible for establishing and maintaining the landscaping on the lot.
4. A minimum of fifteen percent (15%) of the total lot area shall be landscaped. Within the C-2 zone, an exception to this provision may be granted where the applicant provides alternative landscaping or pedestrian amenities, including, but not limited to, street trees, benches, and planters.
5. Areas of the lot used for vehicle maneuvering, parking, loading, repair, or storage, shall be landscaped and screened as follows:
  - a. At least seven percent (7%) of the parking lot area shall be landscaped. Trees shall be planted at a ratio of one tree per ten (10) parking spaces to achieve a canopy effect over fifty percent (50%) of the lot area.
  - b. Landscape buffers are required between parking areas and streets and shall have a minimum width of three feet (3').
  - c. Landscape buffers between parking abutting a property line shall have a minimum width of three feet (3').
  - d. Front or exterior yard landscaping may not be submitted for the interior landscaping required for interior parking stalls.
  - e. There shall be a minimum distance of five feet (5') between parking areas and adjacent residential lots.
  - f. Landscape buffers shall consist of evergreens ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.



- c. Reconstruction of buildings located on properties which have been destroyed or substantially damaged by fire or natural causes. The building(s) shall be reconstructed in the same location as it existed prior to damage or destruction. Reconstruction shall commence within one (1) year of the damage or destruction.
  - d. Building expansions as follows:
    - i. Within the C-1 and C-3 zoning district, where the expansion does not exceed 25% of the gross square footage of the original building or 10,000 square feet in area, whichever is less.
    - ii. Within the C-2 zoning district, where the expansion does not exceed ten (10) percent of the gross square footage of the original building or 3,000 square feet in area, whichever is less.
  - e. Parking lot expansions not exceeding 25% of the gross square footage of the original lot and where the total amount of parking provided will not exceed 150% of the parking allowed by the Zoning Ordinance.
3. **Process.** In addition to the requirements of Section 4.8 (Site Plan Approval) the review authority shall approve, approve with conditions or deny an application based upon compliance with the design review standards of this section. The review authority for developments of 30,000 square feet or less shall be the Community Development Director. For developments of greater than 30,000 square feet, the Community Development Director shall forward the application to the Planning Commission.
- The process is intended to be flexible. Therefore, where strict application of the design standards in this section would be counterproductive to the goal of encouraging high quality development that enhances the City, an applicant may propose alternative design solutions. However, the burden of proof shall be on the applicant to show that the alternative design better accomplishes the City's goals.
4. **Application Requirements.** The applicant shall attend a pre-application conference prior to filing an application with the City.
5. **Standards for Approvals for all Buildings.**
- a. **Natural Features** - Buildings shall be sited to protect areas of special interest or other natural features such as natural grade, trees, vegetation and rock out-croppings are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.

- b. Building, location and orientation - New buildings shall have at least one principal building entrance oriented toward the primary frontage property line.
- c. Pedestrian Walkways
- i. Walkways from the sidewalk to building entrances. A continuous pedestrian walkway shall be provided from the primary frontage sidewalk for pedestrians to access building entrances. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50% of the length of the walkway. This walkway is necessary for persons who will access the site by walking, biking or transit. Walkways shall be connected to adjacent sites wherever practicable.
  - ii. Walkways from parking areas to building entrances. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from the parking pods. The walkways shall be located within the pods and shall be designed to provide access from the pods to the entrances of the building(s). The walkways shall be designed to separate people from moving vehicles as much as possible. These walkways shall have a minimum width of 5 feet with no car overhang or other obstruction. The walkways must also be designed for disabled access according to the Uniform Building Code. This may require the walkways to be widened or modified.
  - iii. All internal pedestrian walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.
  - iv. Pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance to all buildings on the site.
  - v. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, street crossings, building and store entry points, and shall feature adjoining landscaped areas that includes trees, shrubs, benches, flower beds, groundcover, or other such materials.

- d. Mechanical equipment and service areas. Mechanical equipment and service areas shall be screened with visual barriers from adjacent properties, public roadways, parks, or other public areas. The architectural design of the building shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.
- e. Building elevations. The exterior walls of buildings which can be viewed from a public street and which are greater than 20 feet in horizontal length shall be constructed using a combination of the architectural features identified in subsection (f), below. The minimum number of architectural features to be incorporated into each wall is three (3) in the C-1 and C-3 zones and four (4) in the C-2 zone. Where appropriate, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.
- f. Architectural Features. Architectural features are elements that complement the design intent of the structure and are acceptable to the review authority. Architectural features shall be appropriate for the proposed building type and style and features may vary on rear/side/front elevations. Architectural features include, but are not limited to the following:
- i recesses,
  - ii projections,
  - iii wall insets,
  - iv arcades,
  - v window display areas,
  - vi awning,
  - vii balconies,
  - viii window projections (e.g. bay windows),
  - ix permanent landscape structures (e.g. built-in planter boxes),
  - x cupolas or towers,
  - xi pillars or posts

- xii decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation and similar features),
  - xiii window trim (minimum four (4) inches wide),
  - xiv other features that complement the design intent of the structure and are acceptable to the review authority.
- g. Building Materials. The predominant building materials should be materials that are characteristic of Central Oregon such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Within the Downtown Commercial (C-2) zone, the following exterior finish materials are prohibited (except when used as foundation materials): smooth-faced (plain) concrete block, plain concrete panels, corrugated metal, plywood, sheet press board, and vinyl siding. Metal roofs may be allowed if compatible with the overall architectural design of the building.
- h. Roof Design. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat roof tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.
- i. Customer Entrances. Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged. Within the Downtown Commercial (C-2) zone, buildings must provide weather protection for patrons using customer entrances. At a minimum, the main public entrance must have an awning, canopy, arcade, or similar feature that provides weather protection.
- j. Community Amenities, such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.

- k. Building and Sign Colors: Exterior colors shall be low reflectance, subtle, and neutral. The use of high intensity colors such as black, neon, metallic or florescent for the facade and/or roof of the building are prohibited except as approved for building trim. All exterior building colors pursuant to this standard shall comply with the color palette identified as Exhibit "1" of this Ordinance. The use of Trademark colors will require approval.
  
- l. Drive-Through and Drive-up Facilities: The regulations of this section apply to all uses that have drive-through or drive-up facilities and apply only to the portions of the site development that comprise the drive-through or drive-up facility.
  - i. Stacking lanes must be set back 5 feet from all lot lines.
  - ii. All driveway entrances, including stacking lane entrances, must be at least 50 feet from an intersection.
  - iii. Stacking lanes must be designed so that they do not interfere with parking and vehicle circulation.
  - iv. Stacking lanes must be clearly identified and separated from parking and travel areas through such means as striping, curbing, landscaping, and signs.
  - v. Gasoline service stations. A minimum of 30 feet of stacking lane is required between a curb cut and the nearest gasoline pump.
  - vi. Drive in restaurants. A minimum of 150 feet for a single stacking lane or 80 feet per lane when there is more than one stacking lane, is required. A stacking lane is measured from the curb cut to the area where the service is provided. Stacking lanes do not have to be linear.
  - vii. Other drive-through and drive-up facilities. A minimum of 45 feet for a single stacking lane or 30 feet when there is more than one stacking lane, is required. A stacking lane is measured from the curb cut to the area where the service is provided. Stacking lanes do not have to be linear.
  
- m. Integration into the Street Network. Applicant shall work with the Public Works Department to ensure that internal and new street(s) shall connect to existing streets or be designed to facilitate future connections to the maximum extent possible. The need for a Traffic Impact Study (TIS) and/or a Traffic Control Device Study shall be determined by the Public Works Director.

6. **Standards for Buildings Greater than 30,000 Gross Square Feet**. The purpose of these regulations are to mitigate potential impacts of Large Scale Structures (those containing more than 30,000 gross square feet) and infrastructure that supports such structures. The provisions set out below promote development that compatible with, and does not detract from the City's unique character, scale, and sense of place and encourage a mixture of uses and sizes of structures that facilitate a safe and comfortable pedestrian scale environment. Large Scale Buildings and supporting infrastructure shall be kept in good condition and shall be the responsibility of the property owner or building owner. The standards in this section shall apply in addition to the standards of Section 3.5.1 (O)(5). In case of a conflict, the more restrictive standards shall prevail.
- a. **Size and Mass**. No single structure greater than 150,000 gross square feet is permitted. However, a structure may be larger than 150,000 gross square feet so long as no single separately rentable space within the structure exceeds 150,000 gross square feet.
  - b. **Building Design**. Large Scale Buildings should have architectural features and patterns that provide visual interest, at the scale of the pedestrian, reduce massive aesthetic effects, and reflect the local character. The following elements should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint: color changes, material changes, texture changes and relief feature (such as offsets, projections and reveals):
    - i. **Architectural Unity**. All buildings on the same site shall be architecturally unified. Architectural unity means that buildings shall be related in architectural style, color scheme, and building materials.
    - ii. **Exterior Materials**. Predominant exterior building materials shall be of high quality material. These include, without limitation: brick, exterior wood siding, rock, stone or tinted and textured concrete masonry units. Facade colors shall be neutral or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors, but these colors may not comprise more than 15% of any building facade. The use of high intensity, metallic, black or fluorescent colors, including primary colors, are not allowed. Exterior building materials shall not include the following:
      - a. Smooth-faced concrete block;
      - b. Smooth-faced tilt-up concrete panels; or
      - c. Pre-fabricated steel panels

- iii. Facades and Exterior Walls. The following standards, which apply to all building facades which are visible from adjoining public streets or properties, are intended to reduce the massive scale of Large Scale Buildings which, without application of these standards, would be incompatible with City's desired character.
  - a. Facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet.
- iv. Roofs. The following standards are intended to foster variations in roof lines to add interest to, and reduce the scale of, Large Scale Buildings. Roof features should complement the character of adjoining development. Roofs shall have no less than two (2) of the following features:
  - a. Parapets concealing flat roofs and rooftop equipment, such as HVAC units from the public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatment and shall not be of a constant height for a distance of greater than 150 feet.
  - b. Overhanging eaves, extending no less than 3 feet past the supporting walls, for no less than 30% of the building perimeter.
  - c. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run.
  - d. Three or more roof slope planes.
- v. Entryways. Entryway design elements and variations should give orientation and aesthetically pleasing character to the building. The following standards identify desirable entryway design features:

- a. Large Scale Buildings shall feature multiple entrances that are separated by not more than 300 feet along any side of a building requiring customer entrances. Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access from public sidewalks, and provide convenience where certain entrances offer access to individual stores, or identified departments of a store. Multiple entrances also mitigate the effect of the unbroken walls and neglected areas that often characterize building facades that face bordering land uses.
- b. All sides of a Large Scale Building that directly faces an abutting public street shall feature at least one customer entrance. Where a Large Scale Building directly faces more than two (2) abutting public streets, this requirement shall apply only to two (2) sides of the building, those sides which are abutting the streets.
- c. When structures are adjacent to a residential zone and separated from that zoning district by a public or private street, the Large Scale Building shall have at least one (1) entryway facing that street.
- d. Each Large Scale Building on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:
  1. Canopies or porticos;
  2. Overhangs;
  3. Recesses/projections;
  4. Arcades;
  5. Raised corniced parapets over the door;
  6. Peaked roof forms;
  7. Arches;
  8. Outdoor patios;

9. Display windows;
  10. Architectural details, such as tile work and moldings which are integrated into the building structure and design; or
  11. Integral planters that incorporate landscaped areas and/or places for sitting.
- vi. **Multiple Entryways.** Multiple entryways or architectural features shall be incorporated into the design in order to break up the apparent mass and scale of Large Scale Buildings. Entrances may be to tenant spaces other than the primary tenant. For structures:
- a. 50,000 square feet to 75,000 square feet, there shall be a clearly articulated public entrance on at least two (2) sides of the structure. At least one (1) such entrance shall be visible from a public street and connected to that street by a pedestrian sidewalk.
  - b. 75,000 square feet and above, shall provide a significant pedestrian amenity such as outdoor seating areas, play areas for children, and public courtyards.
- c. **Site Design.** All supporting or associated buildings and enclosures shall be designed to be compatible with a Large Scale Building. Compatibility shall be measured in terms of design, form, use of materials and color.
- i. **Community Spaces.** Large Scale Buildings shall provide outdoor spaces and amenities to link structures with the remainder of the community. Passenger drop-off/pick-up points shall be integrated with traffic patterns on the site. Special design features shall enhance the building's function as a center of community activity. Each Large Scale Building shall provide at least two (2) of the following design features, which shall be constructed of materials that match the Large Scale Building and linked by sidewalks to the structure:
    - 1 Patio/seating area;
    - 2 Pedestrian plaza with benches;
    - 3 Window shopping walkway;
    - 4 Outdoor playground area; or
    - 5 Water feature, clock tower.

- d. **Landscaping.** All Large Scale Buildings shall provide the following landscaping, and shall be the property owner's responsibility to ensure that the landscaping remain healthy and in good condition:
- i. A landscaped buffer of at least twenty (20) feet in width shall be provided along all property lines abutting roadways, with breaks for approved access points. A minimum of 5 feet wide landscape buffer shall be planted along all other property lines. No parking is permitted within these required landscape areas.
  - ii. Landscaped areas shall be protected by raised curbs or fixed wheel stops approved by the Public Works Department. A variety of trees, shrubs and flowers shall be incorporated into the landscaping.
- e. **Pedestrian Circulation.** Pedestrian accessibility opens auto-oriented developments to nearby neighborhoods, thereby reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for internal pedestrian circulation systems that will provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience.
- i. Sidewalks, no less than six (6) feet in width, shall be provided along the full length of the building, along any façade featuring a customer entrance, and along any façade abutting public parking areas. These sidewalks shall be located at least six (6) feet from the front of the building to provide planting beds for foundation landscaping, except here features such as arcades or entryways are part of the façade.
  - ii. Weather protection features such as awnings or arcades shall extend at least twenty (20) feet from all customer entrances.
- f. **Parking Orientation.** Parking areas shall provide safe, convenient, and efficient access. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. When buildings are located closer to streets, pedestrian traffic is encouraged and architectural details take on added importance. To achieve this, for any Large Scale Building, no more than twenty (20) percent of the off-street parking areas for the entire property shall be located between the Large Scale Building(s) and an arterial street, unless other buildings located between the Large Scale Building and the arterial street extend along at least fifty (50) percent of the frontage between the arterial and the Large Scale Building.

**SECTION 3.5.2 NEIGHBORHOOD COMMERCIAL (NC).** - The City's goal is to provide the community with a location for people to gather and create a local business center alongside and amongst residential areas. This chapter provides standards for the orderly improvement and expansion of a Neighborhood Commercial District based on:

- A. Efficient use of land and urban services;
- B. A mixture of land uses to encourage walking as an alternative to driving, and provides more employment and housing options.
- C. Provides both formal and informal community gathering places;
- D. Connects neighborhoods with employment areas; and
- E. Reduces reliance on the automobile and reduces parking needs in the commercial district. Transportation improvements (or emergency measures) to allow for normal operation, maintenance, and/or repair of existing transportation facilities, and project(s) identified within the adopted Transportation System Plan are allowed outright.

**F. PERMITTED USES.** (Subject to Site Plan Review)

- 1. Retail trade establishments in which the operation takes place solely within an enclosed building
- 2. Business or professional offices
- 3. Public park and recreation areas, and community centers
- 4. Building roof and wall mounted antennas for cellular, PCS, and similar radio services [see Section 3.6.1]

**G. CONDITIONAL USE.** (with Site Plan Review)

- 1. Retail trade establishments where any part of the operation takes place outside an enclosed building.
- 2. Residential occupancies located on the second floor of a commercial structure, provided there is an existing, or proposed commercial use on the ground floor of the structure.
- 3. Lodge for civic or fraternal organization

4. Churches
5. Apartments

**H. SETBACK REQUIREMENTS.**

1. Front Setback: Shall be a minimum of 12 feet from the front property line.
2. Side and Rear Setback: No requirements.
3. Corner Setback for a lot with more than one (1) property line abutting a street - proposed structure(s) shall be twelve feet (12') from these property lines.

**I. HEIGHT REQUIREMENTS.** No structure shall exceed a height of thirty-five feet (35') when measured from the ground to the peak of the roof.

**J. PARKING REGULATIONS.** Shall meet the requirements of Table 4.5.1 in Section 4.5 and requirements of Sections 4.4 through 4.7 of the City's Zoning Ordinance.

**K. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City sewer system; or where the structure is within three hundred feet (300') of an existing City sewer.

**L. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City water system unless authorized by the City for connection an adjoining water system.

**M. FLOODPLAIN.** Any structure proposed to be located in the floodplain must meet Federal Emergency Management Agency (FEMA) and Zoning Ordinance regulations.

**N. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
3. Not be able to see source of light, or light reflective or amplifying device from outside property line.
4. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
5. Lighted poles shall not exceed twenty feet (20') in height.

**O. LANDSCAPING.**

1. All unused portions of the property shall be maintained with landscaping consisting of ground cover, or planted grass, shrubs, trees, flower beds, bark dust, or other suitable landscaping.
2. Property owner shall be responsible for establishing and maintaining the landscaping on the lot.
3. A minimum of fifteen percent (15%) of the total lot area shall be landscaped. This is submitted with the site plan application and must receive approval.

Exceptions to this provision may be granted where:

- a. The proposed development is in the established downtown area.
- b. Areas of the lot used for vehicle maneuvering, parking, loading, or storage, shall be landscaped and screened as follows:
  - i. At least seven percent (7%) of the parking lot area shall be landscaped. Trees shall be planted at a ratio of one tree per ten (10) parking spaces to achieve a canopy effect over fifty percent (50%) of the lot area.
  - ii. Landscape buffers are required between parking areas and streets and shall have a minimum width of three feet (3').
  - iii. Landscape buffers between parking abutting a property line shall have a minimum width of three feet (3').
  - iv. Front or exterior yard landscaping may not be submitted for the interior landscaping required for interior parking stalls.

- v. There shall be a minimum distance of five feet (5') between parking areas and adjacent residential lots.
- vi. Landscape buffers shall consist of evergreens ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.
- vii. Landscaping in a parking or loading area shall have a width of not less than five feet (5'). Landscaping in a parking lot or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.
- viii. Provision shall be made for the irrigation of planting area.
- ix. Required landscaping shall be continuously maintained.
- x. Vegetation planted in accordance with an approved site plan shall be maintained by the property owner or developer. Plants or trees that die or are damaged shall be replaced and maintained.
- xi. Drainage. Surface drainage shall be contained on-site.

**P. DESIGN REVIEW.** To provide design standards for commercial development within the City Limits. These standards ensure that the public health, safety and general welfare are protected and the general interest of the public is served. The standards provide for originality, flexibility and innovation in site planning and development to enhance the special characteristics that make Madras a unique place to live.

1. Ordinance Provisions. Except as exempted by subsection 2 below, the provisions of this Ordinance section shall apply to the following activities:
  - a. All new building construction.
  - b. Any exterior modifications to existing buildings.
  - c. All new parking lots.
  - d. All outdoor storage and display areas.
  - e. All new signs.
  - f. All building expansions greater than 10,000 square feet.

Structures shall be painted or repainted in a single primary color in whites, creams or earth tones with complimentary trim. The trim shall not exceed twelve inches (12") in width.

2. Exemptions. This Ordinance section does not apply to the following activities:
  - a. Maintenance of the exterior of an existing structure such as re-roofing or residing.
  - b. Interior remodeling.
  - c. Reconstruction of buildings located on properties which have been destroyed or substantially damaged by fire or natural causes. The building(s) shall be reconstructed in the same location as it existed prior to damage or destruction. Reconstruction shall commence within one (1) year of the damage or destruction.
  - d. Building expansions not exceeding 25% of the gross square footage of the original building and where the expansion does not exceed 10,000 square feet in area.
  - e. Parking lot expansions not exceeding 25% of the gross square footage of the original lot and where the total amount of parking provided will not exceed 150% of the parking allowed by the Zoning Ordinance.
3. Process. The Community Development Director shall approve, approve with conditions or deny an application based upon compliance with the site plan criteria, and design review standards. Approval shall be obtained from the Community Development Director prior to the issuance of a building permit for all activities described in Paragraph (1) of this section.
4. Application Requirements. The applicant shall attend a pre-application conference prior to filing an application for Design Review with the Community Development Department. After attending the pre-application conference the applicant shall file an application for Design Review along with other applicable applications (site plan and/or conditional use) with the Community Development Department.
5. Standards for Approvals for Buildings 30,000 gross square feet or less. The Community Development Director shall use the standards in this section and the criteria for site plan review to ensure compliance with the purpose of Design Review.
  - a. Natural Features - Buildings shall be sited to protect areas of special interest or other natural features such as natural grade, trees, vegetation and rock outcroppings are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.

- b. Building, location and orientation - New buildings shall have at least one principal building entrance oriented toward the primary frontage property line.
- c. Pedestrian Walkways
  - i. Walkways from the sidewalk to building entrances. A continuous pedestrian walkway shall be provided from the primary frontage sidewalk for pedestrians to access building entrances. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50% of the length of the walkway. This walkway is necessary or persons who will access the site by walking, biking or transit. Walkways shall be connected to adjacent sites wherever practicable.
  - ii. Walkways from parking areas to building entrances. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from the parking pods. The walkways shall be located within the pods and shall be designed to provide access from the pods to the entrances of the building(s). The walkways shall be designed to separate people from moving vehicles as much as possible. These walkways shall have a minimum width of 5 feet with no car overhang or other obstruction. The walkways must also be designed for disabled access according to the Uniform Building Code. This may require the walkways to be widened or modified. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.
- d. Mechanical equipment and service areas. Mechanical equipment and service areas shall be screened with visual barriers from adjacent properties, public roadways, parks, or other public areas. The architectural design of the building shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.
- e. Building design.
  - i. Exterior building design.
    - 1. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls which can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

2. Architectural Features include, but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awning, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority.
  3. A portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.
  4. Building materials. The predominant building materials should be materials that are characteristic of Central Oregon such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.
- ii. Roof Design. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat roof tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.
  - iii. Customer Entrances. Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged.
  - iv. Community Amenities, such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.
- f. Building and Sign Colors: Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors such as black, neon, metallic or florescent for the facade and, or roof of the building are prohibited except as approved for building trim. The use of Trademark colors will require approval.

**SECTION 3.5.3 COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD).**

**A. PURPOSE.** To enable a range of employment, service and residential opportunities within the areas designated on the Comprehensive Plan and Zone Map as Commercial (C-1) Zone. The Commercial Planned Unit Development (CPUD) creates opportunities for mixed-use developments in a master-planned setting at a scale and intensity compatible with the uses allowed in the Commercial Zone and surrounding areas. A CPUD is intended to provide amenities and conveniences within the development and in nearby areas while accommodating a growing and changing marketplace by allowing greater flexibility in permitted uses within the master planned area.

**B. APPLICABILITY.**

1. A CPUD shall be developed or controlled by one proprietary interest, such as an owners association.
2. The development may be on one lot or within one ownership, may be subdivided, may have condominium ownerships, or be a combination of these types.

**C. PERMITTED USES. (Subject to Site Plan Review)**

1. Any use permitted outright or conditionally allowed in the C-1 Zone, with the following restrictions:
  - a. Freighting or trucking yards and terminals are prohibited in a CPUD.
  - b. Activities shall be enclosed with a building or structure whose appearance is compatible with the CPUD Master Plan as determined by the Architectural Design Guidelines Committee.
    1. Motels, hotels
    2. Recreational Vehicle Parks (see Section 3.5.1 (D)) (Planning Commission Review)
    3. Food stores
    4. Automobile / truck service stations (requirements in Article 4, Section 4.14 also apply)
    5. Cafes and restaurants including drive-ins

6. All commercial uses including retail stores, service establishments, professional and other office, recreational enterprises, financial institutions, hotels, and similar uses
  7. Telephone exchange, electrical substations, or public utilities; except for communication towers
  8. Fire, police, or other governmental buildings
  9. Clubs and lodges
  10. Electrical, plumbing, heating or paint sales, service and repair
  11. Garage - automobile, light truck and trailer, or marine sales, rental storage, service and repair.
  12. Laundry or dry cleaning
  13. Machine shop repair
  14. Manufacture of artificial limbs, dentures, hearing aides, surgical instruments, and dressings or other devices employed by the medical or dental profession
  15. Sign painting shop, sale or repair
  16. Churches
  17. Storage facility
  18. Residential occupancy(ies) located above the ground floor (1<sup>st</sup> floor) of the commercial structure, provided there is an existing or proposed commercial use on the 1<sup>st</sup> floor of the structure.
- c. Other uses determined to be within the intent of a CPUD by the Hearings Body.
- d. Large Retail Structures (Big Box) Development Standards (Planning Commission Review) shall comply with Section 3.5.1 (O).

#### **D. LIMITATIONS ON USES.**

1. In a CPUD, the following limitations in area shall apply:

- a. For CPUDs 5 to 10 acres in size: residential uses shall not total more than 10% of the total gross area.
- b. For CPUDs 10 to 20 acres in size: residential uses shall not total more than 25% of the total gross area.
- c. For CPUDs larger than 20 acres in size: residential uses shall not total more than 50% of the total gross area.

**E. DEVELOPMENT STANDARDS.** The following development standards shall apply:

1. A CPUD shall include a minimum of five (5) acres.
2. The lot size, setbacks, and other dimensional standards shall be determined in accordance with the Master Plan.

**F. SUBMITTALS REQUIRED.** The following applications shall be submitted for CPUD consideration:

1. A Master Plan is required for a CPUD. Approval of the Master Plan shall constitute City approval of the CPUD. The Master Plan shall demonstrate that the project is designed with an overall plan for lots, building locations, proposed building uses, accesses from the public street system, shared parking, internal circulation system for motor vehicles and pedestrians, landscaping, and signing. The Master Plan shall include a Phasing Program, if phasing is contemplated.
2. A Transportation Impact Analysis shall be required as part of the CPUD Master Plan. The Transportation Impact Analysis shall be based on the proposed layout, building sizes, and uses.
3. The Master Plan shall include a set of Covenants, Conditions and Restrictions (CC&Rs) and Architectural Design Guidelines governing architectural and landscape. The Architectural Design Guidelines shall be administered by an Architectural Design Review Committee created as part of the CC&Rs specifically to determine compliance with the Guidelines.
4. Site Plan Approval shall be required only for buildings that constitute a significant departure from the building size, location, or use proposed by the Master Plan.
  - a. A significant departure in size shall be an increase in gross square footage of greater than 20%.
  - b. A significant departure in location shall be a shift in more than 50 feet in any direction.

- c. A significant departure in use shall be a change from retail, office, to other non-Commercial Use. Changes from proposed non-Commercial to Commercial shall not be considered significant.

- G. **PHASED DEVELOPMENT.** A CPUD may be completed in phases. The first phase shall have commenced significant construction within two (2) years of approval, or as determined by the Master Plan. The final phase shall have commenced significant construction within a period determined by the Master Plan.
- H. **PROJECT VOID FOR NON-COMPLIANCE OF APPROVAL.** If substantial construction does not commence as stated within Subsection G above, then the approval shall become void.
- I. **APPEALS.** The decision of the Hearings Body regarding the CPUD may be appealed in the manner provided for in Article 9, Section 9.22 - Appeals.
- J. **MODIFYING APPROVED CPUD.** Modifications to approved CPUD may occur subject to the requirements within Madras Land Development Code Section 9.5. Such modifications may be required to be reviewed by the same Hearings Body that approved the original CPUD; this is at the discretion of the Community Development Department Director.

**SECTION 3.6 INDUSTRIAL (I).****A. PURPOSE AND INTENT.**

The purpose of the Industrial Zone is to fulfill the industrial and economic development policies of the Madras Comprehensive Plan and support a diverse economy in a business-friendly environment. The zone is intended to provide suitable locations for a range of light and heavy industrial uses and jobs in the core economic sectors of agricultural and mining industries, aviation and aeronautics, trucking and transportation, warehousing, manufacturing of wood, high-tech electronics and other products. Industrial Zone development standards are intended to guide orderly development and provide appropriate design elements to enhance the community and create a quality environment for employees.

[Amended by Ordinance No. 890, Passed by Council on September 13, 2016.]

**B. USES**

1. Types of Uses for the purposes of this chapter, there are three types of uses:
  - a. A permitted use (P) is a use which is permitted outright subject to site plan approval and to all of the applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Section 9.28.
  - b. A conditional use (C) is a use the approval of which is at the discretion of the Planning Commission and subject to site plan approval. The approval process and criteria are set forth in Article 8. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Section 9.28.
  - c. A prohibited use (X) is one which is expressly prohibited in the zone. In addition, uses not specifically listed as permitted or conditional in Table 3.6-1 or deemed to be similar uses permitted to Section 9.28 are also prohibited.

[Section 1, Subsection a. b. and c. Added by Ordinance No. 890, Passed by Council on September 13, 2016.]

2. Use Table. A list of permitted, conditional and prohibited uses in the industrial zone is presented in Table 3.6-1.

[Section 2, Added by Ordinance No. 890, Passed by Council on September 13, 2016.]

Table 3.6-1 Uses in the Industrial Zone (I)

Use	Type of Use (P, C, X)
Electronics firms and high-tech industry <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Manufacturing and production, secondary processing, fabricating, assembly, processing, packaging or storage, repairing, distribution and warehousing, of the following: <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Wood products and secondary wood products	P
Steel and structural steel products, foundries and machine shops	P
Food processing, including canning, freezing, drying, dairy products and similar food processing and preserving, beverage bottling facility, but excluding processes which involved the slaughter of animals.	P
Textile mill products including apparel and other finished products made from fabrics and similar materials.	P
Recreation and sporting goods equipment	P
Manufactured homes and recreational vehicles	P
Furniture and fixtures including retail wood products	P
Printing and publishing and allied industries	P
Rubber and miscellaneous plastics	P
Leather and leather goods, excluding a tannery	P
Cement, glass, clay and stone products	P
Fabricated metal products	P
Electrical and electronic equipment, machinery and supplies but excluding batteries	P
Energy related products	P

Table 3.6-1 Uses in the Industrial Zone (I), Continued

Use	Type of Use (P, C, X)
Measuring, analyzing and controlling instruments; photographic, medical, dental, orthopedic and optical goods; watches and clocks	P
Freight terminals including loading docks, storage, warehousing and wholesale distribution, cold storage lockers and similar personal storage facilities such as mini-storage warehouses	P
Experimental, research, testing or development facilities <a href="#">[Added by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Warehouse and Freight Movement, transportation terminals, trucking and freight yards <a href="#">[Added by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Corporation headquarters and business office directly related to industry	P
Aircraft service, maintenance, and aviation related industry	P
Public or semi-public uses, including fire, police, or other governmental buildings	P
Public utility facilities (does not include Communication Tower Requirements) <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Automotive repair garages, body and fender works, paint, and upholstery shops <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Lumber yards and building material yards; contractor's yards <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Ancillary uses (i.e. deli, tavern, mini-market, food carts in accordance with city standards, retail sales subordinate to a permitted use), shall: <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P

Table 3.6-1 Uses in the Industrial Zone (I), Continued

Use	Type of Use (P, C, X)
comprise of less than 30% of the total square footage of a building located in the industrial zoning district; and	P
is secondary to the primary use of the building; and	P
be primarily for the use and convenience of the employees who work in the industrial area  <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	P
Call Centers	P
Building roof and wall-mounted antennas for cellular, PCS, and similar radio services	P
Incidental and necessary services such as child care facilities and recreational facilities for persons working in the Industrial zoning district, when conducted within an integral part of a main structure and having no exterior display or advertising	C
Asphalt, redi-mix operations, concrete or concrete products manufacturing including storage yards	C
Communication Facilities (see Section 3.6)	C
Chemical or glue manufacturing or storage, including farm Chemicals  <a href="#">[Amended by Ordinance No. 890, Passed by Council September 13, 2016]</a>	C
Reduction, refining, smelting or alloying of metals, petroleum products or ores	C
Processing of recycled materials	C
Vehicle storage yards, or wrecking yards (relocated from permitted use)	C
Explosives manufacturing or storage	X
Garbage, offal or dead animal reduction or dumping	X
Residential	X
Housing	X

**C. DESIGN REVIEW.** The purpose of this section is to provide design standards for industrial development within the City Limits. These standards ensure that the public health, safety and general welfare are protected and the general interest of the public is served. The standards provide for originality, flexibility and innovation in site planning and development to enhance the special characteristics that make Madras a unique place to live.

[Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

1. Applicability. Except as exempted by subsection 2 below, the provisions of this Ordinance section shall apply to the following activities:
  - a. All new building construction.
  - b. Any exterior modifications to existing buildings.
  - c. All new parking lots.
  - d. All outdoor storage and display areas.
  - e. All building expansions greater than 10,000 square feet.
  - f. Structures shall be painted or repainted as described in Section 3.6(E)(5)(a)(vi) of the Zoning Ordinance.

[Section C, Subsection (1), Item (f) Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

2. Exemptions. This Ordinance section does not apply to the following activities:
  - a. Maintenance of the exterior of an existing structure such as re-roofing or residing.
  - b. Interior remodeling.
  - c. Building expansions not exceeding 25% of the gross square footage of the original building, or 10,000 square feet, whichever is less.
  - d. Parking lot expansions not exceeding 25% of the gross square footage of the original lot.
3. Review and Approval Process. The Community Development Director shall approve, approve with conditions or deny an application based upon compliance with the site plan criteria, the design review standards and approval requirements of Section 9.3 Administrative Action. The Community Development Director may refer

a design review application to the Planning Commission for approval. Approval shall be obtained from the review authority prior to the issuance of all building permits for any of the activities described in Paragraph (1) of this subsection.

[Section C, Subsection (3), Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

4. Application Requirements. The applicant shall attend a pre-application conference prior to filing an application for Design Review with the Community Development Department. Subsequently the applicant shall file an application for Design Review in accordance with design review application requirements of Section 4.8 Site Plan Approval. Other applicable applications (variance, conditional use, etc.) may be simultaneously filed with the Community Development Department.

[Section C, Subsection (4) Amended by Ordinance No. 890, Passed by Council September 13, 2016]

5. Design Review Standards

- a. The Community Development Director shall use the standards in this section and the criteria for site plan review to ensure compliance with the purpose of Design Review.

[Section C, Subsection (5), Item (a.), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- i. Natural Features - Buildings are encouraged to be sited to protect areas of special interest or other natural features such as natural grade, trees, vegetation and rock out-croppings are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.

[Section C, Subsection (5), Item (a), Sub-Item (i), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- ii. Building, location and orientation - New buildings shall have at least one principal building entrance oriented toward the primary front property line.

- iii. Pedestrian Walkways

- a. Walkways from the public sidewalk to building entrances. If applicable, a continuous pedestrian walkway should be provided from

the primary frontage sidewalk for pedestrians to access building entrances. Walkways should be connected to adjacent sites wherever practicable.

[Section C, Subsection (5), Item (a), Sub-Item (iii)(a), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- b. Walkways from parking to building entrances. Internal pedestrian walkways should be developed for persons who need access to the building(s) from the parking areas to separate people from moving vehicles as much as possible. These walkways should have a minimum width of 5 feet with no car overhang or other obstruction, and be designed for disabled access according to the Uniform Building Code. This may require the walkways to be widened or modified. The walkways may include any of the following materials: gravel, asphalt, special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.

[Section C, Subsection (5), Item (a), Sub-Item (iii)(b), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- iv. Mechanical equipment and service areas should be screened with visual barriers from public streets, parks, residential zones or other public areas. The architectural design of the building should incorporate design features which screen, and conceal heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.

[Section C, Subsection (5), Item (a), Sub-Item (iv), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- v. Building design. This section applies only to buildings in the Industrial zone that are visible from the primary public street serving the development.

[Section C, Subsection (5), Item (a), Sub-Item (v), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- a. Exterior building design.

- 1. Exterior walls of buildings which can be viewed from primary public street shall be constructed with at least 3 of the following architectural features: including, but not limited to recesses,

projections, wall insets, arcades, windows, window display areas, doors, awning, balconies, window projections, landscape structures or other features that complement the design intent of the structure.

[Section C, Subsection (5), Item (a), Sub-Item (v)(a)(1), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

2. A portion of the on-site landscaping should abut the walls so that the vegetation combined with the architectural features significantly reduces the visual impact of the building mass as viewed from the street.

[Section C, Subsection (5), Item (a), Sub-Item (v)(a)(2), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

3. Building materials. The predominant building materials should be characteristic of Central Oregon such as brick, wood, native stone and tinted/textured concrete masonry units, tilt-up concrete panels, pre-fabricated steel panels, or glass products.

[Section C, Subsection (5), Item (a), Sub-Item (v)(a)(3), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- b. Roof Design. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods should be used to conceal flat roof tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.

[Section C, Subsection (5), Item (a), Sub-Item (v)(b), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- c. Customer Entrances. Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged.

- d. Community Amenities, such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.
- vi. Building Colors: Exterior colors shall be low reflectance, subtle, and neutral. The use of high intensity colors such as black, neon, metallic or florescent for the facade and/or roof of the building are prohibited except as approved for building trim. All exterior building colors pursuant to this standard shall comply with the color palette identified as Exhibit "1" of this Ordinance. The use of Trademark colors will require approval.

[Section C, Subsection (5), Item (a), Sub-Item (vi), Amended by Ordinance No. 890, Passed by Council September 13, 2016]

- D. OUTDOOR STORAGE.** Except for storage of large scale and bulky products such as lumber and steel pipe, outside storage areas shall be obscured from sight from the primary public street serving the development by a 6 foot sight obscuring fence, decorative wall, or landscaping that obstructs the materials being stored.

[Section D amended by Ordinance No. 890, Passed by Council on September 13, 2016]

**E. AREA REQUIREMENTS.**

1. The minimum lot area shall have a minimum of five thousand (5,000) square feet.
2. The minimum lot width shall be fifty feet (50').

**F. SETBACK REQUIREMENTS.** - none, unless:

1. Front and rear setbacks shall be minimum of ten feet (10') when abutting a residential zone.
2. Side setback shall be a minimum of five feet (5') where abutting a residential zone.
3. Corner Setback for a lot with more than one (1) property line abutting a street - proposed structures shall be ten feet (10') from these property lines.

- G. HEIGHT OF BUILDING.** No structure shall exceed a height of forty-five feet (45') without prior authorization from the Planning Commission and City Council.

**H. PARKING REGULATIONS.** Parking shall be provided in accordance with the requirements of Table 4.5.1 in Section 4.5 and requirements of Sections 4.4 through 4.7 of the City's Zoning Ordinance.

[Section H amended by Ordinance No. 890, Passed by Council on September 13, 2016]

**I. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy, it shall be connected to the City sewer system; or where the structure is within three-hundred feet (300') of an existing City sewer.

**J. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy it shall be connected to the City water system unless authorized by the City for connection to an adjoining water system.

**K. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
3. Shield the source of light or light reflective or amplifying device visible from outside the property line.

[Section K, Subsection 3, Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

4. Blinking, strobe, or rotating light(s) are prohibited unless required by the Federal Aviation Administration (FAA).

[Section K, Subsection 4, Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

5. Lighted poles shall not exceed twenty feet (20') in height.

## L. LANDSCAPING.

A landscape plan shall be submitted for all developments requiring Site Design Review. The City encourages the use of water-wise plant and landscape materials as described in the guide for "Xeriscaping in the High Desert".

[Section L Added by Ordinance No. 890, Passed by Council on September 13, 2016]

1. A minimum of ten percent (10%) of the total gross floor area of all buildings on the property or properties shall be landscaped in accordance with the following standards:

[Section L, Subsection 1, Added by Ordinance No. 890, Passed by Council on September 13, 2016]

- a. Landscaping shall consist of ground cover, grasses, shrubs, trees, flower beds, bark dust, stone and hardscape features such as patios, decks, entryways, etc., or other suitable landscaping. Existing significant vegetation areas or rock outcroppings that are protected may be credited toward meeting the minimum landscape area standard.

[Section L, Subsection 1, Item (a), Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

- b. The property owner shall be responsible for establishing and continuously maintaining the landscaping on the lot.

[Section L, Subsection 1, Item (b), Amended by Ordinance No. 890, Passed by Council on September 13, 2016]

- c. Landscaping shall be irrigated with an automated irrigation system.

[Section L, Subsection 1, Item (c), Added by Ordinance No. 890, Passed by Council on September 13, 2016]

- d. Areas of the lot abutting a public street or residential zone that are used for vehicle maneuvering, parking, loading, or storage, shall be landscaped according to this section, and can be credited towards the total 10% site landscaping requirement.

- i. At least seven percent (7%) of the parking lot area shall be landscaped.

- ii. Landscape buffers are required between parking areas and public streets and residential zones, and shall have a minimum width of five feet (5').
- iii. Landscape buffers shall consist of evergreens and deciduous trees, ground cover, shrubs, grasses and flower species recommended for high desert conditions.

[Section L, Subsection 1, Item (d), Sub-Items i, ii, and iii amended by Ordinance No. 890, Passed by Council on September 13, 2016]

- iv. Landscaping in a parking or loading area shall have a width of not less than five feet (5'). Landscaping in a parking lot or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

**SECTION 3.6.1 COMMUNICATION FACILITIES.** - The purpose of this section is to control the placement and distribution of communication facilities within the City Limits and the Urban Growth Boundary. The provisions of this Section provide for the placement of communication facilities while protecting surrounding properties from tower structure failure and visual impacts.

**A. General Regulations.**

1. No more than one tower is allowed on any one lot or parcel. The Planning Commission may approve an exception to the maximum number of towers per lot or parcel if one of the following findings is made:
  - a. co-location of additional towers is consistent with neighborhood character;
  - b. the provider has shown that denial of an application for additional towers would have the effect of prohibiting service because the tower would fill a significant gap in coverage and no alternative locations are available and/or technologically feasible; or
  - c. the provider has shown that denial of an application would unreasonably discriminate among providers of functionally equivalent services.
2. In order to ensure public safety, all towers shall be set back from an abutting property line with a residential zoning designation by a distance at least equal to the height of the tower, including any antennas or other appurtenances. The setback shall be measured from that part of the tower that is closest to the neighboring residential property line.
3. 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. For guyed towers, all guy anchors shall be located at least 50 feet from all abutting properties.
4. No visible communications facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined by the Planning Commission that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high visibility facilities are permitted on any such building, any such site, or in any such district.
5. All accessory buildings and structures built to contain equipment related to a communications facility may not exceed 12 feet in height or 200 square feet unless the applicant demonstrates that a greater height or size is necessary.

6. The height of a communication facility shall be the tallest point of the facility as measured from the ground inclusive any tower or, if mounted on a roof top or façade, from the tallest architectural feature other than another communication facility.
7. All communication facilities, including expansions to existing facilities shall be designed to minimize the visual impact to the greatest extent practicable by means of placement, screening, landscaping, and camouflage. All facilities shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. The applicant shall use the least visible antennas reasonably available to accomplish the coverage objectives. All facilities shall be sited in such a manner as to cause the least detriment to the viewshed of adjoining properties, neighboring properties, and distant properties.
8. 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, unless required by any other applicable law.
9. All camouflaged facilities shall be designed to visually and operationally blend into the surrounding area in a manner consistent with existing development on adjacent properties. The facility shall also be appropriate for the specific site. In other words, it should not "stand out" from its surrounding environment.
10. Building-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 two feet out from the face of an exterior wall.
11. 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.
12. Compliance with Photo Simulations. As a condition of approval and prior to final inspection of the facility, the applicant shall submit evidence, such as photos, to the satisfaction of the City sufficient to prove that the communication facility, and any tower supporting the communication facility, is in substantial conformance with photo simulations provided with the application. Any non-conformance shall be remedied prior to final inspection.
13. Noise from any equipment supporting the communication facility shall not substantially exceed ambient noise levels in the vicinity of the communication facility.

14. No signs, striping, graphics, or other attention-getting devices are permitted on any tower or communications facility except for warning and safety signage with a surface area of no more than three 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.
15. No net loss in required parking spaces shall occur as a result of the installation of any tower or communication facility.
16. Cabinets and other accessory equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view.
17. Equipment cabinets shall display current contact information of the operator to report maintenance problems.
18. Communication facilities shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Planning Commission shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply the City's Outdoor Lighting standards unless otherwise required under Federal law.
19. 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, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the tower.
20. Any communication facility that is abandoned from active use for a period exceeding one (1) year shall be removed by the property owner as well as any supporting tower, equipment cabinets, accessory structures, and other appurtenances. If the owner fails to comply with this provision, the City may call upon any bond, cash deposit, personal guarantee or any other security associated with the communication facility or tower to finance the cost or expenses resulting from such non-compliance. Abandonment is defined in as:
  - a. An applicant or co-locator tenant loses its Federal Communication Commission (FCC) license to operate the communication facility and such license is not restored within one (1) year or otherwise fails to maintain a current Federal Communication Commission (FCC) license for a period of one (1) year; or

- b. If an existing tower is unoccupied for a period exceeding one (1) year the permit shall be come null and void.

**B. General Application Requirements**

1. Any application related to a communications facility, tower, antenna, or related apparatus, shall include the following submittals:
  - a. A copy of the lease agreement with an existing property owner; and
  - b. A copy of the Federal Communications Commission license; and
  - c. A map showing the effective service area circle for the proposed site, tax lots within the service area circles, and the locations of existing towers or monopoles supporting telecommunication facilities; and
  - d. A site plan showing the location of the proposed facility and accessory structures, proposed landscaping, fencing, engineered design specifications, and photographic simulations as viewed from the north, south, east and west of the facility at the proposed site.
  - e. A narrative detailing Applicant's compliance with every standard applicable to the application.

**C. Review Process and Approval Standards.**

**1. Eligible Modifications**

- a. Requests to modify a communications facility, including alterations to accessory buildings, cabinets, and other infrastructure, in a manner that will not substantially change the physical dimensions of the tower shall be reviewed administratively consistent with 47 U.S.C. 332(c)(7).
- b. For purposes of this section, "substantial change" shall mean:
  - i. A proposed modification that would increase the existing height of the communication facility by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater (may exceed these size limits if necessary to avoid interference with existing antennas);

- ii. A proposed modification that would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
- iii. A proposed modification that would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (may exceed these size limits if necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable); or
 

A proposed modification that would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.
- c. The Planning Director may impose any reasonable condition(s) deemed necessary to achieve compliance with the approval standards except that the Planning Director may not place any condition on the tower supporting the eligible modification (i.e. re-location, additional camouflaging, etc.).

## **2. Towers and Antennas**

- a. Any proposal to locate, relocate, or substantially change a communications facility or a proposal for a building-mounted antenna of more than six feet in height shall require Conditional Use approval by the Planning Commission.
- b. In addition to the application submittals required in subsection (B) above, applicants under this subsection must also submit:
  - i. A notice list of all property owners within 500 feet of a proposed building-mounted antenna
  - ii. For towers, a notice list of all property owners within 250 feet. An additional 25 feet shall be added to the notice radius for each foot of height of the proposed communication facility.
- c. In addition to the Conditional Use criteria, the Planning Commission shall approve an application for a tower or antenna upon a determination that the following criteria are met:

- i. A tower shall be setback from any existing adjacent structure, a distance equal to the height of the tower from the finished grade, or according to the setback distances of the underlying zone, whichever is greater.
- ii. Co-location is not feasible.
- iii. The height of the proposed tower or communication facility does not exceed the height limit of the underlying zoning district, or if the height limit is exceeded, that the height is the lowest height necessary to provide adequate communications services. In any event the maximum height for a roof-top or façade mounted antenna shall be 10 feet.
- iv. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
- v. 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:
  1. Scale, bulk, coverage and density;
  2. The harmful effect, if any, upon neighboring properties;
  3. The suitability of the site for the type and intensity of the proposed facility; and
  4. Any other relevant impact of the proposal in the setting where it is proposed.
- vi. All required public facilities have adequate capacity, as determined by the City, to serve the communications facility; and
- vii. The proposed communications facility complies with all of the general regulations contained in subsection (A) above.
- viii. The applicant accepts conditions of approval to maintain landscaping and any camouflaging associated with the tower or antenna and remains compliant with all applicable federal, state, and local regulations.

- ix. Any tower shall be designed in a manner to allow for co-location of not less than one (1) additional wireless carrier. A statement from an Oregon licensed structural engineer shall be provided that certifies the tower or monopole structure has been designed with sufficient strength to carry any additional antenna array and the specific antenna location available on the structure that complies with required spacing between antennas of different carriers.
- d. The Planning Commission may impose any other 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.
- e. Prior to the issuance of a building permit for a tower or a rooftop or façade mounted antenna, the property owner shall provide the City with a bond, cash deposit, guarantee, or other security satisfactory to the City in the amount 120% of the cost of removing an abandoned tower, including any communication facilities located thereon as well as supporting equipment cabinets, accessory structures, and other appurtenances, as determined by a professional engineer.

**SECTION 3.7 MIXED-USE EMPLOYMENT (MUE)**

**A. PURPOSE**

The purpose of the Mixed Use Employment zone is to provide land for the development of a variety of employment uses including business and office parks, office buildings, service outlets, light manufacturing / assembly, wholesale trade and show rooms, warehouse / distribution, storage, trade schools, retail goods and services, and other commercial and light industrial uses that are commonly found in mixed-use employment districts. Single-family housing is not permitted as a stand-alone use but may be approved as an ancillary use. Given the potential within the district for diverse uses to be constructed in close proximity to each other, design standards in the district are intended to limit activities within buildings and design finishes that are consistent for the range of allowed uses.

**B. USES**

1. Permitted Uses - uses permitted in the MUE zone are listed in Table 3.7.1 which is divided into uses permitted outright (P), uses permitted conditionally (C) and uses permitted as accessory to another allowed use (A). The Planning Commission may approve uses not listed as allowed in the zone in accordance with Section 9.28 of this ordinance.

**Table 3.7.1 - Allowed Uses**

Use Categories and Uses	Review
<b>A. Commercial</b>	
1. <b>Day Care Facilities</b> - establishments that provide for the daily care of children and adults with special needs, including before and after school care, child development facilities, adult activity centers that do not include lodging.	C
2. <b>Drive-through Facilities</b> - when developed in conjunction with an allowed use. Examples include a coffee kiosk, food cart, bank drive-through, food take-out window, etc.	P

Table 3.7.1 - Allowed Uses, Continued

Use Categories and Uses	Review
3. <b>Eating and Drinking Establishments</b> - businesses primarily involved in the preparation and sale of food and beverages for on-site consumption or take-away, including bakeries, restaurants, coffee shop, brewpub, tavern, sandwich shop, etc.	P
4. <b>General Office</b> - professional and administrative service uses, including banks, financial services, insurance, real estate, medical and dental clinics, professional services, call centers, and other employment uses that typically operate in an office setting.	P
5. <b>Medical Facility</b> - allowed uses include medical and dental offices, health care delivery service centers such as an urgent care center, hospice care, medical testing laboratory, and veterinary services.	P
6. <b>Personal and Contract Services</b> - uses oriented toward the sale and delivery of personal services, including day spas, hair care, pet grooming, laundry and dry cleaning, printing, etc.	P
7. <b>Hotel / Motel</b> - commercial lodging where tenancy is less than one-month, including hotels, motels, bed and breakfast, and truck-stops. Does not include senior and retirement housing.	P
8. <b>Recreation and Fitness</b> - uses oriented to delivering youth and adult recreation activities, including dance and yoga studies, fitness centers, climbing gyms, martial arts centers, bowling alleys, soccer centers, movie theaters, skating rinks, etc.	P
9. <b>Repair-oriented</b> - establishments engaged in the maintenance and repair of consumer and business goods, including electronics, automotive, bicycles, jewelry, cobblers, office equipment, tailor and seamstress, upholsters, automotive, aviation and marine equipment, etc.	P
10. <b>Retail Sales and Services</b> - sales oriented establishments involved in the sale, leasing, or rental of new or used products and services to the public, including car sales, home and business goods and services, pharmaceuticals, jewelry, hardware, household supplies and furnishings, electronics, clothing, dry goods, pet supplies and pets, office and art supplies, etc.	P
11. <b>Private</b> Pre-School, Primary, Secondary, Colleges, and Vocational Schools.	C

Table 3.7.1 - Allowed Uses, Continued

Use Categories and Uses	Review
<b>B. Manufacturing and Production</b>	
<p>1. <b>Manufacturing and Production</b> - uses engaged in the fabrication, manufacture, assembly, and packaging of goods for resale.</p> <p>Examples include agricultural processing, except for live animal processing, food and catering services, breweries, distilleries and wineries, woodworking and cabinet makers, metal fabrication, motor machinery, electronics, marine and aviation products, etc.</p>	P
<p>2. <b>Trade Services and Storage</b> - uses engaged in the storage, distribution and resale of wholesale goods and bulk items, including warehousing and distribution, and commercial storage facilities.</p>	C
<p>3. <b>Research and Development</b> - uses engaged in product or service research, including laboratories, testing facilities, design studios and other research-oriented activities.</p>	P
<b>C. Public and Institutional</b>	
<p>1. <b>Utilities</b> - public facilities and utility uses, such as utility substations, pump stations, data storage, etc.</p>	C
<p>2. <b>Communication Facility</b> - allowed subject to standards in Section 3.6.1</p>	P
<p>3. <b>Public</b> Pre-school, Primary, Secondary, Colleges, and Vocational Schools</p>	C
<p>4. <b>Police, Fire, and other governmental uses</b></p>	P
<b>D. Residential</b>	
<p>1. <b>Caretaker residence or apartment</b> for an allowed use</p>	A

Table 3.7.1 - Allowed Uses, Continued

Use Categories and Uses	Review
<b>E. Other</b>	
1. <b>Temporary uses</b> subject to MMC 3.5.1.C	P
2. <b>Public Parking Lots</b>	P
3. <b>Churches</b> and places of worship	P

## 2. Prohibited Uses

- a. Motor sports training and competitive venues, bulk fuel storage, wrecking yards, solid waste handling, animal processing, chemical and petroleum processing, explosives manufacturing, asphalt/cement/rock crushing operations, commercial composting, outdoor shooting / target range.
- b. Outdoor fabrication, assembly, processing, or repair of goods and materials. This restriction does not apply to inventory stored outdoors provided it meets screening requirements for outdoor storage (e.g. nursery stock).
- c. Residential uses other than those allowed as accessory to an allowed use.

## C. DEVELOPMENT STANDARDS

The allowed mix of uses in the zone require that new development be appropriately sited and operated in terms of building location, orientation to the street, vehicular access, the orientation of parking and loading docks, storage areas and lighting so that uses remain compatible over time. Uses in the MUE zone are subject to the following development standards.

Table 3.7.2 summarizes development standards that apply in the MUE zone. Standards are explained in detail below the table.

Table 3.7.2 - Development Standards

Standard	Unit
<b>1. Lot Standards</b>	
a. Minimum Size	5,000 sq. ft.
b. Maximum Size	None
c. Street Frontage	50 ft. minimum
<b>2. Site Development</b>	
a. Setbacks	
1. Front Minimum	10'
2. Front Maximum	
Building <5,000 sq. ft.	60'
>5,000 but <20,000	75'
>20,000 sq. ft.	None
3. Side *	None
4. Rear *	None
b. Lot Coverage	
1. Maximum	85%
2. Landscaping	15% minimum; drainage swales may be included in the calculation.
Bonus Allowances	Reductions in landscape requirements may be approved for certain landscape features (see below)
c. Parking	
1. Required spaces	The number of Off-Street Parking spaces shall be consistent with Section 4.4-4.6 of this ordinance.
2. Location	Two parking bays with a drive aisle are allowed in front of the building. All other parking must be located to the side or behind the building.
3. On-Street	On-street parking may be counted toward meeting required minimum parking if the classification of the street in the current City of Madras TSP allows and the street is improved to such classification

Table 3.7.2 - Development Standards, Continued

Standard	Unit
4. Parking lots	Landscaped buffers are required between parking aisles. 7% of a parking lot area must be landscaped.
5. Loading docks	Must be located on the side or rear of a building and shall not block a public street.
d. Access and Circulation	Site access and local circulation are subject to City of Madras Public Improvement Design & Construction Standards.
1. Building orientation	Main entrance oriented to the street or primary drive aisle.
2. Cross-access	Easements are required between adjacent properties with less than 200' of street frontage for auto, bike, and pedestrian use.
3. Local Circulation	Development on parcels greater than 3-acres must include a local street circulation plan.
e. Environment	
1. Lighting	See below
2. Air and Noise	See below
3. Storage	Outdoor storage areas must be screened from public view.

\* when development abuts residential uses, a landscaped side-yard / rear-yard and a minimum 15' setback is required.

1. Lot Development

Lot size: 5,000 sq. ft. minimum

Coverage: 85% maximum coverage by buildings and impervious surfaces.

2. Site Development

a. Building Setback

Front Minimum: 15'

Maximum: 75'

Side: None except 15' minimum when abutting a residential use.

Rear: 10' except 15' when abutting a residential use.

b. Landscaping - A landscaping plan shall be prepared in accordance with the following standards:

- i. At least 15% of the lot area shall be landscaped.

- ii. All landscaping shall consist of ground cover, or planted grass, shrubs, trees, flower beds, or drought-tolerant plant materials.
- iii. Landscape features may include drainage swales, parking medians, landscape buffers.
- iv. A 3-foot landscape buffer area shall be provided along the base of all exterior walls that face parking areas.
- v. At least seven percent (7%) of parking lot areas shall be landscaped. Trees shall be planted at a ratio of one tree per ten (10) parking spaces to achieve a canopy effect over the lot area.
- vi. Landscape buffers of three feet (3') width are required between parking aisles and between parking lot areas and streets / drive aisle.
- vii. There shall be a landscaped buffer of at least fifteen feet (15') width between buildings or parking areas that are adjacent to residential uses.
- viii. Landscape buffers shall consist of evergreens ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.
- ix. Required landscaping shall be continuously maintained. Landscaped areas shall be irrigated, except for xerophytic plantings (e.g. plants in drainage infiltration swales).
- x. Public gathering areas, such as plazas, atriums, and courtyards with at least 15% of the design is devoted to planted beds or containers, water features, public art, and other amenities.
- xi. The landscaping standard in Section 2(B)(i) may be reduced to 12% if any of the following are incorporated into the development plan:
  - A. Use of drought tolerant plants throughout the plan per Xeriscaping in the High Desert: Guide for Central Oregon, 2005 or an alternative planting list approved by the City;
  - B. Preservation of rock outcroppings and native habitat areas greater than 500 sq. feet in area;
  - C. Provision of cross-access easements connecting primary drive aisles between adjacent properties;

- D. Connection to a City Engineer approved off-site stormwater management facility.

3. Parking and Loading:

- a. All parking and loading shall comply with the provisions of Sections 4.4 through 4.6 of this ordinance.
- b. Two parking bays with a drive aisle may be located in front of a building. All other parking areas must be located to the side or behind buildings.
- c. Parking areas must include sidewalks or pedestrian walkways that provide safe pedestrians access to buildings.
- d. Loading docks - In the MUE zone, loading docks must be located to the side or rear of buildings. Loading docks must be recessed far enough that trucks using them do not obstruct public roadways or drive aisles.

4. Access and Circulation:

- a. Building access shall be oriented toward the primary public street or drive aisle that serves the building.
- b. Vehicular and bicycle/pedestrian cross-access - Properties with less than 200' of street frontage shall provide cross access easements for pedestrians and vehicles to adjoining properties in accordance with Chapter 6, Access Management Strategies, in the City of Madras Transportation System Plan.
- c. Local circulation - Development plans that involve more than 3-acres shall include a Local Street Circulation Plan that details how existing and future development will be served by and connect to the local street network in a manner that is consistent with the Madras Transportation System Plan (TSP). Plans shall adhere to city block standards and street classification guidelines. Where the TSP includes a Local Circulation Plan for the area where the development is proposed, the Local Street Circulation Plan shall be consistent with the TSP.

5. Environmental

- a. Lighting - The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of

the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

- i. Structural exterior lighting shall not project directly into an abutting lot.
  - ii. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
  - iii. Not be able to see source of light, or light reflective, or amplifying device from outside property line.
  - iv. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
  - v. Lighted poles shall not exceed twenty feet (20') in height.
- b. Air and Noise - All uses shall comply with applicable air and noise quality standards established by the Oregon Department of Environmental Quality or city standards, whichever is more restrictive.
- c. Outdoor Storage - Outdoor storage areas shall be screened from public view. This standard applies to solid waste refuse bins, bulk, raw, or processing materials, heavy equipment, finished inventory, etc. Outdoor storage areas may not be used for manufacturing, assembling, or fabricating goods and materials.

**D. BUILDING STANDARDS**

Buildings in the MUE zone shall meet the design standards below.

**Table 3.7.3 - Building Design Standards**

Element	Standard	Exceptions
Height Limit	45'	Roof mounted equipment may exceed the height limit by 10'. Roof-mounted equipment shall be screened except for communication equipment and solar collectors.

Table 3.7.3 - Building Design Standards, Continued

Element	Standard	Exceptions
Size Limit	Minimum: none Maximum: 100,000 sq. ft.	
Exterior Materials	Brick, concrete panel, smooth-finished concrete block, stucco, stone, and wood siding may be used as primary materials.	Accent materials, not exceeding 20% of the front facade, may include pre-fabricated metal, stone, and wood.
Glazing	The front facade shall include 30% glazing for the first 15' of the building height.	
Roofs	Roof designs may be flat, gabled, arched, or other designs with coverings that complement the building design. Sloped roofs shall incorporate eaves that extend over the exterior walls a minimum of 2 feet beyond the wall.	Buildings with flat roofs shall incorporate exterior parapet wall that extends at least 2 feet above the roof.
Entryways	Each building shall have a primary building entry facing the primary public street or drive aisle serving the building. All public entries shall include weather-protection features.	
Walkways	There shall be a 6 foot walkway between the building and parking lot. The walkway shall connect pedestrian access ways from parking areas to entryways.	

### **E. DESIGN REVIEW**

All development applications in the MUE zone are subject to design review. The purpose of design review is to ensure that the public health, safety and general welfare are protected and the general interest of the public is served. The standards provide for originality, flexibility and innovation in site planning and development in order to enhance the special characteristics that make Madras a unique place to live.

1. Applicability. Except as exempted by subsection 2 below, the provisions of this section shall apply to the following activities:
  - a. All new building construction. Design review for buildings greater than 30,000 square feet must be approved by the Planning Commission through Conditional Use review.
  - b. Exterior modifications to existing buildings.
  - c. All new parking lots.
  - d. All outdoor storage and display areas.
  - e. All building expansions greater than 10,000 square feet.
  - f. Structures shall be painted or repainted as described in Section 3.6(E)(5)(a)(vi) of the Zoning Ordinance.
  
2. Exemptions. This ordinance section does not apply to the following activities:
  - a. Maintenance of the exterior of an existing structure such as re-roofing or residing.
  - b. Interior remodeling.
  - c. Building expansions not exceeding 25% of the gross square footage of the original building, or 10,000 square feet, whichever is less.
  - d. Parking lot expansions not exceeding 25% of the gross square footage of the original lot.
  
3. Review Process. The Community Development Director shall approve, approve with conditions or deny an application based upon compliance with the site plan criteria, and design review standards. Approval shall be obtained from the review authority prior to the issuance of all building permits for any of the activities described in Paragraph (1) of this section.

4. Application Requirements. All applicants shall attend a pre-application conference prior to filing a land use application that involves Design Review with the Community Development Department. After attending the pre-application conference the applicant shall file an application for Design Review along with other applicable applications (site plan and/or conditional use) with the Community Development Department.
  
5. Standards for Approvals.
  - a. Natural Features - Buildings shall be sited to protect areas of special interest and significant natural features such as natural grade, trees, vegetation and rock outcroppings. These resources are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement. They are to be protected during construction.
  
  - b. Building, location and orientation - New buildings shall have at least one principal building entrance oriented toward the primary front property line.
  
  - c. Pedestrian Walkways
    - i. Walkways from the sidewalk to building entrances. A continuous pedestrian walkway shall be provided from the primary frontage sidewalk for pedestrians to access building entrances. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays for at least 50% of the length of the walkway. Walkways shall be connected to adjacent sites wherever practicable.
  
    - ii. Walkways from parking pods (areas) to building entrances. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from the parking pods. The walkways shall be located within the pods and shall be designed to provide access from the pods to the entrances of the building(s). The walkways shall be designed to separate people from moving vehicles as much as possible. These walkways shall have a minimum width of 5 feet with no car overhang or other obstruction. The walkways must also be designed for disabled access according to the Uniform Building Code. This may require the walkways to be widened or modified. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.

- d. Mechanical equipment and service areas shall be screened with visual barriers from adjacent properties, public streets, parks, or other public areas. The architectural design of the building shall incorporate design features that screen and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.
- e. Exterior Building Design
1. Exterior walls of buildings that are greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls that can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.
  2. Architectural features include, but are not limited to, the following: recesses, projections, wall insets, arcades, window display areas, awning, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority.
  3. A portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduces the visual impact of the building mass as viewed from the street.
  4. Building materials. The predominant building materials should be characteristic of Central Oregon such as brick, wood, native stone and tinted / textured concrete masonry units and/or glass products.  
  
Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.
  5. Roof Design. Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible rooflines and roofs that project out over the exterior wall of a building enough to

cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat-roof tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.

6. Customer Entrances. Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged. Inclement weather protection is required.
7. Community amenities, such as patio / seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.
8. Building and Sign Colors: Exterior colors shall be low reflectance, subtle, and neutral. The use of high intensity colors such as black, neon, metallic or florescent for the facade and/or roof of the building are prohibited except as approved for building trim. The use of Trademark colors requires city approval.

#### **F. EXCEPTION TO DESIGN STANDARDS**

An exception to the MUE Design Standards may be approved by the Madras Planning Commission as provided by Section 9.3(A) of this Ordinance. The Planning Commission shall conduct a quasi-judicial hearing in accordance with the provisions of Article 9 of this Ordinance. The Planning Commission's decision may be appealed to the City Council in accordance with Section 9.22 of this Ordinance.

1. Approval Criteria: The Planning Commission shall grant an exception to the Design Standards based on the following criteria:
  - a. Consistent with the purpose of the intent of the MUE Design Standards.
  - b. The location, size, design characteristics of the proposed design shall have minimal adverse impact on the compatibility of the permitted development in the surrounding area.
  - c. The proposed design is aesthetically pleasing and functional and relates harmoniously to the natural environment and existing development.
  - d. The proposed design minimizes visual impacts and preserves natural features to the greatest extent practical.

- e. The requested design exception is the minimum deviation necessary.

**G. NON-CONFORMING STRUCTURES**

An existing attached or detached single-family dwelling that is incorporated into a development may be permitted subject to compliance with Article 5 - Exceptions and Variances of this ordinance.

[Section 3.7, Mixed-Use Employment (MUE) Added by Ordinance No. 890, Passed by Council on September 13, 2016].

**SECTION 3.8 MANUFACTURED DWELLING PARK.**

- A. Purpose. Any place where four (4) or more manufactured dwellings are located within 500 feet of one another on a lot, for the sole purpose of renting, or leasing to any person for a charge or fee paid for the rental or lease of space. Manufactured dwelling parks do not include a lot or lots 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 Community Development Department.
- B. Regulations.
1. No person shall establish or enlarge a manufactured dwelling park without first obtaining the required approvals and permits as required by this Ordinance.
  2. The following regulations and statutes must be adhered to by any applicant for a manufactured dwelling park permit in addition to all requirements included in this Ordinance:
    - i. Oregon Revised Statutes (ORS Chapter 446) regarding manufactured dwelling parks.
    - ii. Oregon State Health Division administrative rules regarding manufactured dwelling parks.
    - iii. Oregon State Building Codes regarding plans review and construction of the park.
- C. Procedure: An application for a manufactured dwelling park approval must be included with the submittal of a Conditional Use Application.
1. A completed application for a manufactured dwelling park application and the appropriate fee submitted;
  2. An area map at a scale which clearly shows the general neighborhood, streets, existing structures and facilities, hazard areas, and other significant features in the area;
  3. A map of the proposed site showing all existing landscape features, existing structures, existing utilities (water, sewer, power, etc.) and existing vegetation;
  4. A preliminary drawing indicating the general layout and design of the project, prepared at a suitable scale, to clearly show all streets, property boundaries, walkways, proposed permanent structures and recreational areas, parking and storage areas, and other facilities. Include approximate dimensions, where appropriate.

5. A preliminary utility plan, indicating sew and water lines, electric, gas, telephone, cable television, and storm water facilities;
6. A conceptual landscaping plan indicating all existing vegetation to be retained, and all proposed landscaping features including trees, shrubs, grass, flowering plants, fences, berms, and open space.

D. Standards and Requirements:

1. Plans review and construction standards for manufactured dwelling parks are regulated through the Jefferson County Community Development Department, Building Division.
2. All state requirements must be met.
3. The density of the manufactured dwelling park shall be consistent with the zoning district.
4. Perimeter setback requirements are the same as for other uses within the zoning district.

E. Limited Expansion of an Existing Manufactured Dwelling Park:

1. It is recognized that most existing manufactured dwelling parks do not meet all the mandatory requirements for "new" manufactured dwelling parks as set forth in this section. It is anticipated that some existing manufactured dwelling parks will not be able to meet all mandatory requirements proposed for expansion.
2. As a condition of limited expansion of an existing manufactured dwelling park, the following shall be made:
  - a. The expansion is required to allow improvement of the older part of the manufactured dwelling park;
  - b. Such an expansion is compatible with the neighborhood;
  - c. The water and sewer facilities will be adequate to meet the needs of the park's existing and future residents;
  - d. The proposed expansion is located on the same lot as the existing manufactured dwelling park. The lot must be in the same configuration at the date of expansion, as it existed on June 30, 2003.

- e. Only one expansion allowed for an existing manufactured dwelling park.
- 3. Streets within the existing manufactured dwelling park must be adequate in condition and capacity to serve the additional traffic generated by the expansion.
- 4. The expanded number of manufactured dwellings shall not exceed more than fifty percent (50%) of the existing developed spaces with the existing park or twenty (20) manufactured dwellings, whichever is the lesser. The City may decrease the actual number of spaces approved for a proposed expansion, depending on the proposed degree of improvements and conformance of the park with the Zoning Ordinance.
- 5. The proposed expansion shall not adversely affect the neighborhood, which the manufactured dwelling park is located.

[This Section Renumbered to Section 3.8 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.9 OPEN SPACE/PUBLIC FACILITIES (OS/PF).****A. PERMITTED USES.**

1. Parks
2. Public facilities (Site Plan Review required)
3. Public use
4. Recreation:
  - a. Golf course (Site Plan Review required)
  - b. Trails (walking, horse, bicycle)
  - c. Game fields (i.e., soccer, baseball)
5. Schools (Site Plan Review required)

**B. AREA REQUIREMENTS.** None**C. SETBACK REQUIREMENTS.** None, unless:

1. All setbacks (front, side, rear, corner) for structures shall be a minimum of twelve feet (12') when abutting a residential zone.

**D. HEIGHT REQUIREMENTS.** No structure(s) shall exceed thirty-five feet (35') when measured from the ground to the peak of the roof.**E. PARKING REGULATIONS.** Shall meet the requirements of Table 4.5.1 in Section 4.5 and requirements of Sections 4.4 through 4.7 of the City's Zoning Ordinance.**F. SANITATION REGULATIONS.** Before any structure(s) receives a Certificate of Occupancy it shall be connected to the City sewer system; or where the structure(s) is within three hundred feet (300') of an existing City sewer.**G. WATER REGULATIONS.** Before any structure receives a Certificate of Occupancy shall be connected to the City water system unless authorized by the City for connection to an adjoining water system.

**H. LIGHTING.** The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.

1. Structural exterior lighting shall not project directly into an abutting lot.
2. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
3. Not be able to see source of light, or light reflective or amplifying device from outside property line.
4. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
5. Lighted poles shall not exceed twenty feet (20') in height.

[This Section Renumbered to Section 3.9 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.10 AIRPORT DEVELOPMENT ZONE.** The purpose of this zone is to provide land adjacent to the airport facilities for future commercial and industrial uses, which may be dependent on air transportation.

**A. PERMITTED USES.** (Site Plan Review required)

1. Air cargo terminals
2. Aircraft sales, repair, service, storage and schools related to aircraft operations, and facilities essential for the operation of airports, such as fuel storage, hangar use, and F.B.O. offices.
3. Terminals (passenger - air, taxi, and bus)
4. Public and semi-public buildings, structures and uses essential to the welfare of an area, such as fire stations, pump stations, and water storage.
5. Ancillary uses with a total floor area of no larger than 1,000 square feet.
6. Uses where the ongoing operations must be directly, dependent upon and associated with the airport.
7. Assembly and manufacture of goods.
8. Assembly, repair, and storage of heavy vehicles and machinery.
9. Storage and processing of agricultural products.
10. Warehouse and freight terminal operations.
11. Professional offices.
12. Public utility facilities.
13. Call Centers.

**B. CONDITIONAL USES.** (Site Plan Review included)

None.

**C. LIMITATIONS OF USE.** In an AD zone, the following conditions shall apply:

1. Liquid and Solid Wastes - Storage of animal, vegetable, or other wastes, which attract insects, rodents, or birds or otherwise create a health hazard shall be prohibited.
2. Discharge Standards - There shall be no emissions of smoke, fly ash, dust, vapor, gases, or other forms of air pollution that may cause nuisance or injury to human, plant or animal life, or to property, or that may conflict with any present or planned operations of the airport.
3. Lighting The purpose of these standards is to allow reasonable uses of outdoor lighting for nighttime safety, utility, security, and enjoyment while preserving the ambiance of the night; curtail and reverse any degradation of the nighttime visual environment and the night sky; minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive, or unnecessary; conserve energy and resources to the greatest extent possible; and help protect the natural environment from the damaging effects of night lighting.
  - a. Sign lighting and exterior lighting shall not project directly into an abutting lot;
  - b. Unless necessary for safe and convenient air travel, sign lighting and exterior lighting shall not project directly into the runway, taxi-way, or approach zone.
  - c. Outdoor lighting for safety purposes shall be allowed, however, the outdoor lighting shall not project directly into the abutting lot.
  - d. Not be able to see source of light, or light reflective or amplifying device from outside property line.
  - e. No structure has blinking, strobe, or rotating light(s) unless required by FAA.
  - f. Lighted poles shall not exceed twenty feet (20') in height.

**D. PARKING.** (requirements of Sections 4.4 through 4.7 also apply)

1. Site plan(s) submitted with an application for a building permit must include a parking plan which shows the location and number of parking spaces, circulation patterns, and ingress and egress provisions.
2. All industrial and commercial uses within an Airport Development Zone shall comply with in Table 4.5.1 of this Zoning Ordinance.
3. All parking lots shall have an all weather surface.

4. Adequate provisions for safe and convenient circulation, ingress and egress shall be provided.

**E. GLARE AND ELECTROMAGNETIC INTERFERENCE.**

1. Building materials shall not produce glare, which may conflict with any present or planned operations of the airport.
2. No use may produce electromagnetic interference, which may conflict with any present or planned operations of the airport.

**F. AREA REQUIREMENTS.**

1. Minimum street frontage of lots: Fifty feet (50').
2. No building shall be closer to a farm zone than the height of the building in the AD zone.
3. Maximum height: Two (2) stories or thirty feet (30'), whichever is less, if not equipped with a sprinkler system. Three (3) stories or forty-five feet (45'), whichever is less, if equipped with sprinkler system approved by the Fire Marshal. Structures on the airport property necessary for the operation of the airport may be higher.

**G. FEDERAL AVIATION ADMINISTRATION.** Must meet all standards as set forth by the Federal Aviation Administration.

**H. SANITATION REGULATIONS.** Before any structure receives a Certificate of Occupancy, it shall be connected to the City sewer system; or where the structure is within three-hundred feet (300') of an existing City sewer.

**I. WATER REGULATION.** Before any structure receives a Certificate of Occupancy it shall be connected to the City water system unless authorized by the City for connection to an adjoining water system.

**J. FLOODPLAIN.** Any structure proposed to be located in the floodplain must meet Federal Emergency Management Agency (FEMA) and Zoning Ordinance regulations.

**K. DESIGN REVIEW.** Any proposed site plan and conditional use application shall comply with Section 3.6 (E) of the Madras Zoning Ordinance.

**L. LANDSCAPING.**

1. All unused portions of the property shall be maintained with landscaping consisting of ground cover, or planted grass, shrubs, trees, flower beds, bark dust, or other suitable landscaping.
2. Property owner shall be responsible for establishing and maintaining the landscaping on the lot.
3. A minimum of fifteen percent (15%) of the total lot area shall be landscaped. This is submitted with the site plan application and must receive approval.

Exceptions to this provision may be granted where:

- a. The proposed development is in the established downtown area.
- b. Areas of the lot used for vehicle maneuvering, parking, loading, or storage, shall be landscaped and screened as follows:
  - i. At least seven percent (7%) of the parking lot area shall be landscaped. Trees shall be planted at a ratio of one tree per ten (10) parking spaces to achieve a canopy effect over fifty percent (50%) of the lot area.
  - ii. Landscape buffers are required between parking areas and streets and shall have a minimum width of three feet (3').
  - iii. Landscape buffers between parking abutting a property line shall have a minimum width of three feet (3').
  - iv. Front or exterior yard landscaping may not be submitted for the interior landscaping required for interior parking stalls.
  - v. There shall be a minimum distance of five feet (5') between parking areas and adjacent residential lots.
  - vi. Landscape buffers shall consist of evergreens ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.

- vii. Landscaping in a parking or loading area shall have a width of not less than five feet (5'). Landscaping in a parking lot or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.
- viii. Provision shall be made for the irrigation of planting area.
- ix. Required landscaping shall be continuously maintained.
- x. Vegetation planted in accordance with an approved site plan shall be maintained by the property owner or developer. Plants or trees that die or are damaged shall be replaced and maintained.
- xi. Drainage. Surface drainage shall be contained on-site.

[This Section Renumbered to Section 3.10 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.11 AIRPORT OVERLAY DESIGNATION.** This overlay designation is depicted on the Airport Approach and Clear Zone Map, prepared by Tenneson Engineering Corporation and dated July, 1986.

This overlay designation is intended to prevent the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the City of Madras and Jefferson County.

**A. COMPLIANCE.** In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of this overlay designation. In the event of any conflict between any provisions of this overlay designation and the primary zoning district, the more restrictive provisions shall apply.

**B. PERMITTED USES WITHIN THE AIRPORT APPROACH SAFETY ZONE.**

1. Landscape nursery, cemetery or recreation areas, which do not include buildings or structures.
2. Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights or result in glare, or in any way impair visibility in the vicinity of the landing approach. Approach surfaces must clear these areas by a minimum of fifteen feet (15').
3. Pipeline.
4. Underground utility wire.

**C. CONDITIONAL USES WITHIN THE AIRPORT APPROACH SAFETY ZONE.**

1. Commercial and industrial uses, when authorized in the primary zoning district, provided the use does not result in the following:
  - a. Creating electrical interference with navigational signals or radio communication between the airport and aircraft.
  - b. Making it difficult for pilots to distinguish between airport lights or others.
  - c. Impairing visibility.

- d. Creating bird strike hazards.
  - e. Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use the airport.
  - f. Attracting large numbers of people.
2. Public service or utility facilities requiring no structures.

**D. PROCEDURES.** An applicant seeking a Conditional Use under Section (C), above, shall provide the following findings in addition to the Conditional Use criteria.

1. Property boundary lines as they relate to the Airport Imaginary Surfaces.
2. Location and height of all existing and proposed buildings, structures, utility lines, and roads.
3. Statement from the Oregon Aeronautics Division indicating that the proposal will not interfere with operation of the landing facility.

**E. LIMITATIONS.** Construction or alteration requiring notice.

1. Each sponsor who proposes any of the following construction or alterations shall notify the City Administrator.
  - a. Any construction or alteration of more than two-hundred feet (200') in height above the ground level at its site.
  - b. Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
    - i. 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport specified in subparagraph (5) of this paragraph with at least one runway more than 3,200 feet in actual length excluding heliports.
    - ii. 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified in subparagraph (5) of this paragraph with its longest runway no more than 3,200 feet in actual length, excluding heliports.

- iii. 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport specified in subparagraph (5) of this paragraph.
  - c. Any highway, railroad, or other traverse way for mobile objects of a height, which if adjusted upward seventeen feet (17') for an Interstate Highway that is part of the National System of Military and Interstate Highways, where overcrossings are designed for a minimum of: (1) seventeen feet (17') vertical distance, fifteen feet (15') for any other public roadway, ten feet (10'), or the height of the highest mobile object that would normally traverse the road, whichever is greater; (2) a private road, twenty-three (23') feet for a railroad; and (3) a waterway or any other traverse way, not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (1) or (2) of this paragraph.
  - d. When requested by the FAA, any construction alteration that would be in an instrument approach area (defined in the FAA standards governing instrument approach procedures) and available information indicates it might exceed a standard of Subpart C of this part.
  - e. Any construction or alteration on any of the following airports (including heliports):
    - i. An airport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement.
    - ii. An airport under construction, that is the subject of a notice or proposal on file with the Federal Aviation Administration, and except for military airports, it is clearly indicated that the airport will be available for public use.
    - iii. An airport that is operated by an armed force of the United States.
2. Each sponsor who proposes construction or alteration that is the subject of a notice under paragraph (A) of this section and is advised by an FAA regional office that a supplemental notice is required shall submit that notice on a prescribed form to be received by the FAA regional office at least forty-eight (48) hours before the start of the construction or alteration.
3. Each sponsor who undertakes construction or alteration that is the subject of a notice under paragraph (A) of this section shall, within five (5) days after that construction or alteration reaches its greatest height, submit a supplemental notice on a prescribed form to the FAA regional office having jurisdiction over the area involved, if:

- a. The construction or alteration is more than two-hundred feet (200') above the surface level of its site; or
- b. An FAA regional office advises him that submission of the form is required.

**F. CONSTRUCTION OR ALTERATION NOT REQUIRING NOTICE.**

1. No person is required to notify the City Administrator for any of the following construction or alteration:
  - a. Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.
  - b. Any antenna structure of twenty feet (20') or less in height, except one that would increase the height of another antenna structure.
  - c. Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the City Administrator, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
  - d. Any construction or alteration for which notice is required by any other FAA regulation.

**G. FORM AND TIME OF NOTICE.**

1. Each person who is required to notify the City Administrator shall send one (1) executed set of FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area within which the construction or alteration will be located. Copies of FAA Form 7460-1 may be obtained from the headquarters of the Federal Aviation Administration and the regional offices.
2. The notice must be submitted at least thirty (30) days before the earlier of the following dates:
  - a. The date the proposed construction or alteration is to begin.

- b. The date an application for a construction permit is to be filed. However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the FAA at the same time the application for construction is filed with the Federal Communications Commission, or at any time before that filing.
3. A proposed structure or an alteration to an existing structure that exceeds 2,000 feet in height above the ground will be presumed to be a hazard to air navigation and to result in an inefficient utilization of airspace and the applicant has the burden of overcoming that presumption.

Each notice submitted under the pertinent provisions of Part 77 proposing a structure in excess of 2,000 feet above ground, or an alteration that will make an existing structure exceed that height must contain a detailed showing directed to meeting this burden.

Only in exceptional cases, where the FAA concludes that a clear and compelling showing has been made that it would not result in an inefficient utilization of the airspace and would not result in a hazard to air navigation, will a determination of no hazard be issued.

- - 
  - 
  4. In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (B) of this section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed FAA Form 7460-1 submitted within five (5) days thereafter. Outside normal business hours, emergency notice by telephone or telegraph may be submitted to the nearest FAA Flight Service Station.
5. Each person who is required to notify the City Administrator shall send an executed copy of FAA Form 7460-2, Notice of Actual Construction or Alteration, to the Manager Air Traffic Division, FAA Regional Office having jurisdiction over the area involved.

[This Section Renumbered to Section 3.11 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.12 MEDICAL OVERLAY (MO).**

**A. PURPOSE.** The Medical Overlay (MO) Designation is to provide for the growth and development of hospitals, clinics, or related health care facilities or complexes within a committed community service area:

1. To encourage the development of facilities in a controlled development framework;
2. To provide for a variety of uses that may co-depend and/or support hospitals, clinics, or related health care facilities;
3. To protect such areas from encroachment of incompatible land uses that may have an adverse impact on the operation and future expansion of hospitals, clinics, or related health care facilities; and
4. To allow existing uses within the overlay boundary, which are not under the ownership of the existing hospital to remain conforming to the underlying zoning regulation. The regulations are also intended to protect adjacent land uses and underlying land use zone from the potential adverse impacts of development created by this Overlay Designation.

This will be accomplished in part by requiring adequate off-street parking, landscape buffers, fencing, regulating building height and mass, attractive open space, yard areas, and other design features to minimize the impact of these uses on neighboring residential properties.

**B. BOUNDARY LOCATION.** - The Medical Overlay boundary location includes the following identified properties:

Map #11-13-01CA	Tax Lots	#1800	#2201
		#2000	#2202
		#2200	#2203
Map #11-13-01CD	Tax Lots	#100	#900
		#101	#901
		#102	#904
		#500	#905
		#600	#906
		#601	#1000
		#700	#1100
		#800	

Map #11-13-01-DC	Tax Lots	#100	#104
		#101	#200
		#102	#2800
		#103	#2802

**C. PERMITTED USES. (Site Plan Review Required)**

1. Assisted Living Facilities
2. Adult Care Complex
3. Emergency Services
4. Health Services
5. Helicopter Landing Pad
6. Hospice
7. Hospitals
8. Medical Related Ancillary Uses
9. Medical Related Offices
10. Medical Related Uses
11. Nursing Homes
12. Residences for Temporary Occupancy
13. Residential Home and Residential Care Facilities (Conditional Use Application and Planning Commission Review)

**D. SPECIAL REQUIREMENTS.**

1. Master Planning:
  - a. General: Applications for permitted uses under this overlay shall include a master plan and narrative for the entire site. The Master plan shall include all items required by the site plan review process including, but not limited to, all existing and proposed uses, buildings, structures, and easements.

The master plan shall be prepared to reduce and minimize any identified negative impacts of the proposal on adjacent properties and ensure the livability of residential areas surrounding the development.

- b. Notification. A notification shall be sent to all property owners within 500 feet of the properties included in a master plan. Such notice shall comply with the provisions of Section 9.8 of this Ordinance.
- c. Notification for Helicopter Landing Pads. A notification shall be sent to all property owners within 1500 feet of the property where a Helicopter Landing Pad site is proposed. Such notice shall comply with the provisions of Section 9.8 of this Ordinance.

2. Future Modifications:

- a. Major modifications to the approved master plan, which will alter the scope or character of the project shall require a new application for a site plan application and approval for modification of approval, approval with conditions, or denial by the Community Development Director.
- b. Minor modifications to the approved master plan, which do not alter the project's scope or character shall be approved, approved with conditions, or denied by the Community Development Director.
- c. Notification. A notification shall be sent to all property owners within 500 feet of the proposed development site for all permitted uses.
- d. Notification for Helicopter Landing Pads. A notification shall be sent to all property owners within 1500 feet of the property where a Helicopter Landing Pad site is proposed. Such notice shall comply with the provisions of Section 9.8 of this Ordinance.
- e. All lighting shall be shielded to prevent light from shining directly onto adjacent residential property. Lighted poles shall not exceed twenty feet (20') in height.
- f. Signs shall be in accordance with the City's current sign ordinance.
- g. Setback Requirements:
  - i. Front Setback. The minimum depth of the front setback shall be twelve (12') feet from the property boundary line; or existing public easement, if abutting the front property line.

- ii. Side and Rear Setbacks. The minimum side and rear setbacks for any building shall be ten feet (10') from property line.
- h. Landscaping shall meet the requirements of the underlying zone of the Medical Overlay Designation.

[This Section Renumbered to Section 3.12 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.13 MASTER PLANNED COMMUNITY (MPC) OVERLAY.**

- A. PURPOSE.** The purpose of the Master Planned Community Overlay is to foster the creation of complete communities with a range of land uses and housing types, permit the application of innovative designs, and to allow greater freedom in land development and flexibility in development standards than may be possible under the strict application of the applicable zoning provisions of this code. In permitting such design and development freedom, the intent is to encourage more efficient uses of land and public facilities and services, to address the community's need for a variety of housing, commercial and recreational opportunities (particularly public recreational amenities) and to maintain the highest reasonable quality living environment. An approved Master Planned Community Development Plan guides future development of the subject site. All future land use approvals and development (i.e., subdivision approval) for the subject site shall be in accordance with the guidelines established in the approved Master Planned Community Development Plan.
- B. APPLICABILITY.** As an overlay zone, the Master Planned Community Overlay provisions may be applied in any residential, commercial or industrial zoning district, in accordance with the provisions of Section 3.12 of the Zoning Ordinance and Section 3.5 of the Subdivision and Partition Ordinance.
- C. USES.** Any use permitted outright or conditionally in the underlying base zone(s) is permitted outright within a Master Planned Community Development Plan. Vertical mixing of uses is permitted, such as office uses on the ground floor with residential uses on upper floors. Additionally, the following uses are permitted outright in a Master Planned Community Development Plan:
1. Residential Uses
    - a. Single family dwellings
    - b. Multi-family dwellings (which include apartments, triplexes, and fourplexes) and duplexes, which are located on a single lot
    - c. Attached housing on separate lots, including condominiums and townhomes
      - i. Notwithstanding the definitions in Section 1.3 of the Zoning Ordinance, in the Master Planned Community Overlay district a condominium is a type of development utilizing zero lot lines, individual ownership of units and common ownership of open spaces and other facilities, and which are regulated in part by state law (ORS Chapter 100).

- ii. In the Master Planned Community Overlay district, a townhome is an attached dwelling unit, located on its own lot, that shares one or more common or abutting walls (but does not share a common floor or ceiling) with one or more dwelling units.

2. Community Uses

- a. Public and private non-profit parks and open spaces, including developed open spaces (i.e., a golf course or park with facilities), undeveloped open spaces, community centers and recreation facilities
- b. Public buildings, such as libraries, police stations, fire stations, museums or schools
- c. Churches

3. Commercial Uses

- a. Retail trade establishments in which the operation takes place solely within an enclosed building
- b. Eating or drinking establishment
- c. Food or grocery stores
- d. Professional and other office or services establishments
- e. Fabrication or creation of goods in which the operation takes place solely within an enclosed building and off-site impacts are not created.
- f. Recreational vehicle and equipment storage areas limited to use by the Master Planned Community's occupants.
- g. Home Occupation, subject to the criteria in Section 3.1.2 of the Zoning Ordinance.

4. Other uses which the City finds are designed to serve primarily the residents and visitors to the Master Planned Community or are open to and of benefit to the general public, and are compatible to the overall design of the proposed development.

#### **D. DEVELOPMENT STANDARDS.**

An approved Master Planned Community Development Plan shall include development standards that regulate future development on the subject site. To implement the purpose of the Master Planned Community Overlay (encouraging innovative designs and communities with a range of housing types and uses), the development standards listed below may be modified from the requirements in the underlying base zone or other applicable provisions of the Zoning Ordinance or Subdivision and Partition Ordinance. Such modifications are allowed through the Master Planned Community Development Plan approval process if the Master Planned Community Development Plan includes distinctiveness and excellence in siting, design, amenities and/or landscaping that will enhance the general area. Examples of distinctiveness and excellence include, but are not limited to: exceeding the minimum open space requirement; provision of dedication of public park space; provision of public bikeways and pedestrian ways; superior recreational amenities; respect for natural attributes of the site; provision of a mixture and variety of housing; use of distinctive architectural styles and materials. Unless modified herein or as excepted elsewhere in the Master Planned Community Overlay designation, the applicable standards of the Zoning Ordinance and Subdivision and Partition Ordinance apply.

1. Minimum Master Planned Community Size. A Master Planned Community Development Plan shall be established only for parcels of land which are suitable for the proposed development and of sufficient size to be planned and developed in the manner consistent with the purposes of this section. A Master Planned Community Development Plan approved under Section 3.12 of the Zoning Ordinance and Section 3.5 of the Subdivision and Partition Ordinance shall not be established for less than two hundred (200) acres of contiguous land. Acreage split by public roads, railroad lines or rivers or streams shall count toward the acreage minimum.
2. Dimensional Standards. The minimum lot size, width, depth, street frontage, setback and height requirements otherwise applying to individual lots may be modified by a Master Planned Community Development Plan. An approved Master Planned Community Development Plan shall include dimensional standards for the potential uses within the Master Planned Community.
3. Density. The overall density of residential development allowed in a Master Planned Community Development Plan shall be calculated based upon the gross acreage of the Master Planned Community. Density averaging is allowed, and the density allowed in a Master Planned Community may be increased by 20% from the density otherwise allowed in the base zone.

4. Open Space. At least 30% of the gross acreage of the Master Planned Community shall be open space, and developed open space (such as a golf course or park with facilities) is encouraged. Open space may be publicly or privately owned, and includes the use of land focusing on natural areas, areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Portions of individual residential lots, street landscaping and parking area landscaping shall not be considered open space. Examples of open space includes, but is not limited to parks, golf courses, public squares, plazas, recreational trails, botanical gardens, and natural areas.
5. Streets. Traditional street design and construction standards often do not accommodate innovative development. A Master Planned Community Development Plan may include modified design and construction standards for public and/or private streets. The modified design and construction standards for public and/or private streets shall be coordinated with and approved by the Public Works Director and the Fire Marshall. Such coordination and approval shall be sought as part of the Master Planned Community Development Plan approval process. Consistent with the "New Roadways" section of the Transportation System Plan (TSP), alignments for streets proposed in the TSP may be modified through the Master Planned Community Development Plan approval process.
6. The parking provisions of Section 4.5 of the Zoning Ordinance may be modified to allow an increase or decrease in the number of required off-street parking, and on-street parking may be included in the calculation of parking provided for a use. Shared parking may also be considered for uses with differing hours of parking need. A modification to the applicable parking provisions may be approved through either the Master Planned Community Development Plan approval process or Site Plan Approval (Section 4.8 of the Zoning Ordinance).

[This Section Renumbered to Section 3.13 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.14 EMERGENCY SHELTERS.**

- A. PURPOSE.** This section provides regulation for emergency shelters. These regulations recognize that it is in the public interest to provide short term (non-permanent) transitional housing and shelter to people who would otherwise not receive it, and to ensure that standards of public health and safety are maintained. The regulations are intended to reduce conflicts between emergency shelters and other uses.
- B. LOCATION.** Emergency shelters shall only be permitted as a Conditional Use in the R-1, R-2, C-1, C-2 and C-3 Zoning Districts and located within a church.
- C. PROCEDURES.** Emergency shelters shall be processed in the manner provided for Conditional Uses contained in Section 6.2 of this Ordinance.
- D. APPROVAL CRITERIA FOR EMERGENCY SHELTERS.**
1. Emergency shelters shall comply with standards for granting Conditional Uses contained in Section 6.1(B)(1) through (4) of this Ordinance; and
  2. All emergency shelters shall obtain an Emergency Shelter License from the City of Madras to ensure fire, life, and safety requirements are satisfied prior to an emergency shelter operating.

[This Section Renumbered to Section 3.14 by Ordinance No. 890, Passed by Council on September 13, 2016]

**SECTION 3.15 MEDICAL MARIJUANA DISPENSARIES****A. PROCEDURES.**

1. Medical Marijuana Dispensaries, including new Medical Marijuana Dispensaries located at the same location as a previously approved Medical Marijuana Dispensary, shall obtain Site Plan Approval pursuant to Section 4.8.
2. All applications shall be made in the name of the Person Responsible for a Medical Marijuana Facility as defined in OAR 333-008-1010(26).

[Section 3.14, Subsection A, Items 1 and 2 added by Ordinance No. 871, passed by Council on April 28, 2015.] [This Section Renumbered to Section 3.15 by Ordinance No. 890, Passed by Council on September 13, 2016]

**B. ADDITIONAL APPROVAL CRITERIA.**

In addition to any applicable approval criteria for Site Plan Approval, the applicant shall comply with the following approval criteria:

1. Medical Marijuana Dispensaries can only be approved in the zones in which they are expressly identified as a permitted use. Similar uses are not permitted.
2. An application for a Medical Marijuana Dispensary must have a current City business license at the time of application.
3. Applicant's proposal must demonstrate compliance, or the ability to comply (with appropriate conditions of approval), with Ordinance No. 870.
4. If there are conflicting standards between state law, Ordinance No. 870, and this Ordinance, the most stringent standard shall apply.

[Section 3.14, Subsection B, Items 1, 2, 3 and 4 added by Ordinance No. 871, passed by Council on April 28, 2015.] [This Section Renumbered to Section 3.11 by Ordinance No. 890, Passed by Council on September 13, 2016]

**C. CONDITIONS OF APPROVAL**

In addition to any conditions of approval imposed as part of Site Plan Approval, the following shall be mandatory conditions of approval for all Medical Marijuana Dispensaries:

1. The applicant for a Medical Marijuana Dispensary shall obtain and present documentation of all applicable state approvals, registrations, licensing, and permitting to the City within 6 months of Site Plan Approval.
2. Medical Marijuana Dispensaries shall keep all required state registration, licensing, and permitting current.
3. Medical Marijuana Dispensaries shall keep all required City business licenses or other required permits current.
4. At all times, Medical Marijuana Dispensaries shall remain compliant with Ordinance No. 870 and applicable state laws governing Medical Marijuana Dispensaries, all as they may be amended from time to time.
5. The applicant shall provide the City notice and applicable documentation from the state of any change in the Person Responsible for a Medical Marijuana Facility or the suspension, loss, or forfeiture of any state approval, registration, licensing, or permitting.
6. Site Plan Approval for a Medical Marijuana Dispensary shall be void if any condition of approval is violated.

[Section 3.14, Subsection C, Items 1, 2, 3, 4, 5 and 6 added by Ordinance No. 871, passed by Council on April 28, 2015.] [This Section Renumbered to Section 3.15 by Ordinance No. 890, Passed by Council on September 13, 2016]

#### ARTICLE 4: SUPPLEMENTARY PROVISIONS

**SECTION 4.1 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS.** No lot existing on or after the effective date of Ordinance No. 864 shall be reduced below the minimum square footage required by this Ordinance.

**SECTION 4.2 ACCESS.** - Every lot shall abut a street (other than an alley) for at least fifty feet (50'), except in a Commercial Zone and access to all lots or parcels shall comply with the Access Management Strategies contained in the Transportation System Plan.

##### **A. INTERNAL PEDESTRIAN CIRCULATION**

###### **1. Affected Developments**

- a. New office parks and commercial developments.
- b. Institutional development and public buildings.

###### **2. Walkway Locations**

- a. A walkway shall be provided to each street abutting the property.
- b. A walkway shall be provided for every three hundred feet (300') of street frontage, or for every eight (8) rows of vehicle parking.
- c. A walkway shall be provided to any site, which is not bordered by a street.

###### **3. Connections** - Walkways shall connect building entrances to one another, and to public streets which are existing, or planned transit stops.

On-site walkways shall connect with sidewalks, bike paths, alleyways, and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multi-family, institutional or park use.

Walkways and driveways shall provide a direct connection to walkways and driveways on adjacent developments.

Potential pedestrian connections between the proposed development and the existing or future development on adjacent properties, other than connections via the street system shall be identified. The development application shall designate these connections on the proposed site plan, or findings shall be submitted demonstrating that the connection is infeasible.

4. Dedications - Right-of-ways or public easements shall be provided for all required walkways, which provide a direct connection to adjacent properties.
5. Exemptions - A required walkway or walkway connection need not be provided where another required sidewalk or walkway route provides a reasonably direct route.

An alternate route is reasonably direct if the walking distance increases by less than fifty percent (50%) but not more than one-hundred feet (100') over the other required route.

Walkways are required between most parts of site that people on the site normally would or could walk between. Walkways are not required between buildings or portions of a site which are not intended to be used by pedestrians. Such buildings and features include: Truck loading docks, warehouses, not including office/warehouse combinations, automobile sales lots, temporary uses, outdoor storage areas.

6. Routing - Walkways shall be as direct as possible and avoid unnecessary meandering.

Driveway crossings shall be minimized. Internal parking lot circulation and design shall maintain ease of access for pedestrians from streets and transit stops.

Pedestrian walkways shall be directly linked to entrances and internal circulation of the building.

7. Design - Walkways shall be at least five feet (5') in paved width. Walkways bordering parking spaces shall be at least seven feet (7') wide unless concrete bumpers, bollards, or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway.

Pedestrian scale lighting fixtures shall be provided along all walkways. On-site pedestrian walkways must be lighted to a level where the system can be used at night by employees, residents, and customers.

Stairs or ramps shall be provided where necessary to provide a direct route. Walkways without stairs shall have a maximum slope of eight percent (8%) and a maximum cross slope of two percent (2%).

Internal driveways crossing walkways shall be a maximum of fourteen feet (14') wide for parking lots of less than twenty (20) cars and a maximum of eighteen feet (18') wide for parking lots of more than twenty (20) cars.

Walkways on private property that provide direct links between publicly owned pedestrian routes shall be placed in public easements. Where public access is to be provided on private land, easements shall be provided.

Walkways along nonresidential building frontages shall be covered with awnings, or building overhangs. The minimum vertical clearance is nine feet (9') for awnings and twelve feet (12') for building overhangs. Structural supports and facades for building overhangs shall not obscure more than ten percent (10%) of the area between the building and the street.

The on-site circulation system shall incorporate a streetscape which includes curbs, sidewalks, pedestrian scale light standards and street trees.

Walkways shall be constructed to sidewalk standards except for portions of walkways in driveways and other vehicle maneuvering areas which shall be raised at least three inches (3") and paved with a different material than the surrounding driveway.

8. ADA Compliance - The Americans with Disabilities Act (ADA) contains different and stricter standards for some walkways. For example, the maximum slope for walkways subject to ADA is five percent (5%). Walkways up to eight percent (8%) slope are treated as ramps with special standards for railings and landings. The ADA applies primarily to the walkway which is the principal building entrance and walkways that connect transit stops to building entrances. Where ADA applies to a walkway, the stricter standards of ADA should apply.

**SECTION 4.3 FENCES.** - Fences, hedges, and walls not more than eight feet (8') in height are permitted on all front, rear and side property lines of the parcel. However, the clear vision standards must be met. (See Vision Clearance Area definition)

**SECTION 4.4 OFF-STREET PARKING AND LOADING.**

General provisions are as follows:

- A. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, ensure these requirements are complied with.
- B. Requirements for types of buildings and uses not specifically listed in this Ordinance shall be determined by the Hearings Body based upon the requirements for comparable uses listed.

- C. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- D. Loading. Buildings or structures to be built or substantially altered, which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths. Off-street parking areas used to fulfill requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs.
1. In any zone in connection with every building or part thereof hereafter erected and having a gross floor area of 10,000 square feet or more, which is to be occupied for manufacturing, storage, warehousing, goods display, retail sales, a hotel, a hospital, a mortuary, a laundry, dry cleaning establishment, or other uses similar requiring the receipt or distribution by vehicles or materials or merchandise, there shall be provided and maintained at least one (1) off-street loading berth, plus one (1) additional off-street loading berth for each 20,000 square feet. Said loading berth shall be provided with access, driveways and surfacing in the same manner as for off-street parking, except that each space shall be ten feet (10') wide and twenty-two feet (22') long with a height clearance of at least fourteen feet (14'). A sight obscuring screen, berm or landscaping shall conceal all loading areas from view from public streets or roads.
  2. Loading and unloading of merchandise, equipment, etc. shall not be permitted from public streets or roads.

**SECTION 4.5 OFF-STREET PARKING.** At the time a building is constructed or enlarged by fifty percent (50%) or more, off-street parking spaces shall be provided as set forth in this section.

- A. Amount required. The number of required off-street vehicle parking spaces shall be determined in accordance with Table 4.5-1. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area.
1. The square footage measured shall be the gross floor areas of the building but shall exclude any space within a building devoted to off-street parking or loading. When the number of employees is specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season.

2. In the event that several uses occupy a single structure or parcel of land, the total requirements or off-street shall be the sum of the requirements of the several uses computed separately, unless it can be shown that the peak parking demands are less. In that case, the total requirement may be reduced accordingly.
3. Owners of two (2) or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces as long as peak demand for each does not overlap; provided, that satisfactory legal evidence is presented to the City in the form of deeds, leases, or contracts to establish the joint use.
4. On-Street Parking Credit. Within the C-2 and C-3 zoning districts, credit may be allowed for "on-street parking". The amount of off-street parking required may be reduced by one off-street space for every on-street space adjacent to the development. On-street parking shall follow the established configuration of existing on-street parking. On-street parking spaces shall meet the dimensional requirements of Table 4.6-1.

B. Location (**" Scale Building" Standard**)

1. Except as allowed pursuant to Section 3.5.1.O.6(f), no automobile parking, with the exception of accessible parking, is permitted between the building and an arterial, or collector unless the Community Development Director determines there is no feasible alternative to provide the required parking. If a building setback is provided, the setback area shall be paved with a hard surface (concrete or unit pavers, not asphalt) and shall incorporate seating and landscaping. A public entrance shall be within one-hundred feet (100') of the right-of-way of an arterial or collector street.
2. Development on lots or sites with three (3) frontages may have vehicle parking areas between the building and one (1) of the streets. Development on full blocks may have vehicle parking areas between the building and two (2) of the streets. However, the vehicle area must be between a local street and the building, not an arterial, other than a freeway or other fully controlled access highway.
3. Parking lots with fifty (50) spaces or more shall be divided into separate areas and divided with landscaped areas or walkways at least ten feet (10') in width or by a building or group of buildings.
4. Parking lots shall not occupy more than thirty-three percent (33%) of the frontage of a block on any pedestrian oriented streets.

5. Off-street parking spaces for dwellings shall be located on the same parcel with these dwellings. Other required parking spaces shall be located not farther than three hundred feet (300') from the building or use they are required to serve, measured in a straight line from the building, unless otherwise approved by the Community Development Director.

**[TABLE 4.5-1 REQUIRED VEHICLE PARKING ON NEXT PAGE]**

**TABLE 4.5-1 REQUIRED VEHICLE PARKING**

<b>BUILDING TYPE</b>	<b>PARKING SPACES REQUIRED (Spaces per 1,000 sq. ft. unless otherwise noted)</b>
<b>COMMERCIAL AND INDUSTRIAL</b>	
Office Buildings, Banks	2.5 spaces
Business and Professional Services	2.86 spaces
Commercial Recreational Facilities	10.0 spaces
Shopping Goods (Retail)	2.86 spaces
Convenience Goods (Retail)	2.86 spaces
Restaurants	10.0 spaces
Personal Services and Repairs	2.86 spaces
Manufacturing	2.0 spaces
Warehouses	1.0 spaces
Wholesale	1.5 spaces
<b>RESIDENTIAL</b>	
Single Family Dwelling	1 space per dwelling unit
Duplexes	1 space per dwelling unit
Multiple Family Dwelling	1 space per dwelling unit
Apartment Hotels, Rooming Houses	1 space per dwelling unit
Hotels (spaces per bedroom)	1 space per bedroom
Motels (spaces per bedroom)	1 space per bedroom
<b>PUBLIC BUILDINGS</b>	
Museums and Libraries	3.3 spaces
Public Utilities	3.3 spaces
Welfare Institutions	2.5 spaces
<b>MEDICAL BUILDINGS</b>	
Medical and Dental Offices	2.86 spaces
Hospitals	2.86 spaces
Convalescent Homes or Assisted Living	1.0 space per 2 patient beds or one space per apartment unit
<b>AUDITORIUMS</b>	
General Auditoriums and Theaters	0.25 spaces per seat
Stadiums and Arenas	0.25 spaces per seat
School Auditoriums	0.10 spaces per seat
University Auditoriums	0.10 spaces per seat

**SECTION 4.6 DESIGN AND IMPROVEMENT STANDARDS FOR PARKING LOTS.** The design and improvement standards for parking lots are:

- A. Parking Table and Diagram - Table 4.6-1 provides the minimum dimensions of public or private parking areas based on the diagram on the same page where "A" equals the parking angle "B" equals the stall width, "C" equals the minimum stall depth, "D" equals the minimum clear aisle width, "E" equals the stall distance at bay side, "F" equals the minimum clear bay width and "G" is the maximum permitted decrease in clear aisle width for private parking areas.
- B. Each parking space or stall shall be governed by the requirements of Table 4.6-1, and in no case have less than a minimum width of eight feet (8') and a minimum length of eighteen feet (18') but in any case must have at least a total area of 144 square feet and must be individually accessible, be paved, and be adequately maintained.
- C. Except for parking in connection with dwellings, parking and loading areas adjacent to or within a residential zone or adjacent to a dwelling shall be designed to minimize disturbance to residents by the erection between the uses of a sight-obscuring fence or planted screen of not less than five feet (5') in height except where vision clearance is required.
- D. Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches (4") high and which is set back a minimum of one and one-half feet (1-1/2') from the property line.
- E. Artificial lighting which may be provided shall not shine or create glare in any residential zone or on any adjacent dwelling.
- F. Access aisles shall be of sufficient width to permit easy turning and maneuvering.
- G. Except for single-family and duplex dwellings, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- H. Service drives to off-street parking areas shall be designed and constructed both to facilitate the flow of traffic and to provide maximum safety for vehicles and pedestrians. The number of service drives shall be limited to the minimum that will accommodate anticipated traffic.

- i. The following standards shall apply to parking within the industrial zone:
1. Parking shall be located at the rear and sides of a new building; parking can only be allowed in front of the building (between the landscaping and street) upon approval by the Site Plan Committee.
  2. Parking shall not be allowed on collectors or arterials when industrial zoning is contiguous to said street.
  3. All parking areas shall be limited to sixty (60) spaces plus access -- additional required parking shall be separated by five (5) foot landscaped strips except for access. The sixty (60) parking spaces shall be referred to as a cluster of parking.

**[TABLE 4.6-1 PARKING AREA DIMENSIONS ON NEXT PAGE]**

**TABLE 4.6-1 PARKING AREA DIMENSIONS**

Angle A	Width B	Depth C	Angle Width D	Maximum Permitted Decrease E	F	G
Parallel	8'0"		12.0	22.00	20.0	2
8'0"	13.6	11.0	23.4	24.6		
20 degrees	8'6"	14.1	11.0	24.9	25.1	1
9'0"	14.6	11.0	26.3	25.6		
10'0"	15.5	11.0	29.2	26.5		
8'0"	16.0	11.0	16.0	27.0		
8'6"	16.4	11.0	17.0	27.4		
30 degrees	9'0"	16.8	11.0	18.0	27.8	1
9'6"	17.3	11.0	19.0	28.3		
10'0"	17.7	11.0	20.0	28.7		
8'0"	18.4	14.0	11.3	32.4		
8'6"	18.7	13.5	12.0	32.2		
45 degrees	9'0"	19.1	13.0	12.7	32.1	3
9'6"	19.4	13.0	13.4	32.4		
10'0"	19.8	13.0	14.1	32.8		
8'0"	19.7	19.0	9.2	38.7		
8'6"	20.0	18.5	9.8	38.5		
60 degrees	9'0"	20.3	18.0	10.4	38.3	3
9'5"	20.5	18.0	11.0	38.5		
10'0"	20.8	18.0	11.5	38.8		
8'0"	19.8	20.0	8.5	39.8		
8'6"	20.1	19.5	9.0	39.6		
70 degrees	9'0"	20.4	19.0	9.6	39.4	3
9'6"	20.6	18.5	10.1	39.1		
10'0"	20.9	18.0	10.6	38.9		
8'0"	19.2	25.0	8.1	44.2		
8'6"	19.3	24.0	8.6	43.3		
80 degrees	9'0"	19.4	24.0	9.1	43.4	3
9'6"	19.5	24.0	9.6	43.5		
10'0"	19.6	24.0	10.2	43.6		
8'0"	18.0	26.0	8.0	44.0		
8'6"	18.0	25.0	8.5	43.0		
90 degrees	9'0"	18.0	24.0	9.0	42.0	3
9'6"	18.0	24.0	9.5	42.0		
10'0"	18.0	24.0	10.0	42.0		

**SECTION 4.7 BICYCLE PARKING.**

- A. Applicability: Multi-family development of four (4) units or more, new retail, office and institutional development, transit transfer stations, and park and ride lots must provide bicycle parking facilities.
- B. Exemptions - The City Administrator may allow exemptions to required bicycle parking in connection with temporary uses that are not likely to generate the need for bicycle parking.
- C. Number of Spaces - The minimum number of bicycle parking spaces which are required shall be at least one (1) bicycle space for every ten (10) automobile parking spaces required (Table 4.5-1). In areas of demonstrated, anticipated, or desired high bicycle use, additional bicycle parking, in exchange for required motor vehicle parking, may be authorized by the Hearings Body or Community Development Director.
- D. Location - All required bicycle parking shall be located on-site within fifty feet (50') of well-used entrances and not farther from the entrance than the closest off-street parking space.
1. For buildings with multiple entrances, required short term bicycle parking shall be distributed proportionally at the various entrances. Required long-term public parking shall also be distributed at the various public entrances, while employee parking shall be located at the employee entrance, if applicable.
  2. Bicycle parking may be provided within a building, but the location must be easily accessible for bicycles.
  3. Employee and residential bicycle parking shall offer a high level of security, i.e. bicycle lockers or a locked cage or room with locking facilities inside, to provide safe, long-term parking.
  4. Bicycle parking may be provided within the public right-of-way in areas without building setbacks, subject to approval of the Public Works Director and provided it meets the other bicycle parking requirements.
  5. Bicycle parking facilities shall be separated from motor vehicle parking and maneuvering areas by a barrier or sufficient distance to prevent damage to the parked bicycles.

6. Cover for bicycle parking shall be provided by a bicycle storage room, bicycle locker, or racks inside a building; bicycle lockers or racks in an accessory parking structure; underneath an awning, eave, or other overhang; or other facility as determined by the Hearings Body or Community Development Director that protects the bicycle from direct exposure to the elements.
  7. All required long-term bicycle parking and all bicycle parking for residential, school, and industrial uses must be covered.
- E. Parking Space Dimensions - Each required bicycle parking space shall be at least two and a half feet (2 ½') by six feet (6') and when covered, provide a vertical clearance of at least seven feet (7'). An access aisle of at least five feet (5') wide shall be provided and maintained beside or between each row of bicycle parking (vertical clearance may be four feet (4') in an enclosed bicycle locker. Each required bicycle parking space must be accessible without moving another bicycle.
- F. Parking Facilities - The intent of this subsection is to ensure that required bicycle parking facilities are designed so that bicycles may be securely locked to them without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.
1. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (i.e. a "rack") upon which the bicycle can be locked.
  2. Bicycle racks must hold bicycles securely by means of the frame. The frame must be supported so that the bicycle cannot be pushed or fall to one side in a manner that will damage the wheels.
- G. Lighting - Lighting shall be provided in a bicycle parking area so that all facilities are thoroughly illuminated and visible from adjacent sidewalks or motor vehicle parking lots during all hours of use. Bicycle parking shall be at least as well lit as motor vehicle parking.
- H. Signing - Areas set aside for required bicycle parking must be clearly marked and reserved for bicycle parking only. Where bicycle parking facilities are not directly visible and obvious from the public right-of-way, entry and directional signs shall be provided to direct bicyclists from the public right-of-way to the bicycle parking facility. Directions to employee parking facilities may be signed or supplied as appropriate.

- I. Paving/Surfacing - Outdoor bicycle parking facilities shall be surfaced in the same manner as the motor vehicle parking or with a minimum of one inch (1") thickness of hard surfacing (i.e. asphalt, concrete, pavers, or similar material). This surface will be maintained in a smooth, durable, and well-drained condition.
  
- J. Rental - Bicycle parking spaces required by this Ordinance may not be rented or leased except where required motor vehicle parking is rented or leased.

**SECTION 4.8 SITE PLAN APPROVAL.** - To determine compliance with this Ordinance for development in zoning districts.

**A. SITE PLAN COMMITTEE.**

1. The Site Plan Review Committee shall consist of:
  - a. Community Development Director,
  - b. Public Works Director,
  - c. Fire Marshal, and
  - d. Building Official.

These individuals shall carry out the duties as set forth in this section.

2. The Site Plan Committee shall review the proposal subject to site plan review of the Zoning Ordinance. Once the Site Plan Committee members have submitted their comments to the Community Development Director may approve a proposal with conditions if minimal modification will permit the proposal to comply with requirements of this Ordinance. The Community Development Director may refer any site plan application to the Planning Commission for determination.

**B. PROCEDURES.**

1. Before any building permit is issued in any zoning district subject to a site plan review, a site plan application shall be submitted for determination.
2. Prior to filing a site plan application, the applicant is encouraged to confer with the Community Development Department concerning the requirements of formal application.
3. The site plan application shall be filed on a form provided by the Community Development Department.
4. The site plan shall be drawn to scale and shall indicate the following:
  - a. Location, size, and height of all existing or proposed structures.
  - b. Location, size, and dimension of existing and proposed setbacks, and all spaces between buildings.

- c. Adjoining street and right-of-ways.
- d. Points of access and circulation patterns, loading and maneuvering spaces.
- e. Off-street parking; showing location of parking areas, number of parking spaces including accessible parking, and type of surface.
- f. Sidewalks, patios, courtyards, and decks.
- g. Storm drainage system, including but not limited to, draining and grading plan, existing topography, and elevations.
- h. Fences, screens, and retaining walls, including heights and materials.
- i. Existing utilities (i.e. electric, gas, power lines).
- j. Exterior lighting (show location and general nature).
- k. Sanitary sewer system or location of septic tank and drainfield (if still using and not connected to City sewer), and the distance the lot is from the nearest sewer connection.
- l. Water supply (showing size of main, water flow and size of water line).
- m. Location of existing and, if any, proposed fire hydrants with size and flow data.
- n. Identify any existing or proposed easements.
- o. Proposed public improvements.
- p. Sign (if existing, location and size). Any new or sign alteration will require a sign application to be submitted to the Community Development Department for approval.
- q. Give intended type of occupancy for the structure (i.e. assembly, educational, manufacturing, processing, storage and type of contents).
- r. List all existing or proposed conditions that could be hazardous to life and property from fire or explosion (i.e. storage of: liquefied petroleum gas, flammable or combustible liquids, explosives and blasting agents).

5. Within thirty days (30) the Community Development Director shall deem the application complete or notify the applicant of the deficiencies in the application.
6. A Site Plan Committee member may require the following in addition to the minimum standards of this Ordinance as a condition of approval:
  - a. An increase in the required setback.
  - b. Modifications to pedestrian and vehicular circulation patterns, parking provisions, the location and number of points of access to the site, sidewalks, and designs of parking areas.
  - c. Additional off-street parking.
  - d. Limitations on the size, location and number of outdoor lights.
  - e. Limitations on the number and location of curb cuts.
  - f. Dedication of land for the creation or enlargement of streets where the existing street system will be impacted by or inadequate to handle the additional burden caused by the proposal.
  - g. Dedication of land or an easement for the creation or extension of Access Corridors for pedestrian and bicycle travel.
  - h. Improvements, including but not limited to paving, curbing, installing of traffic signals, constructing sidewalks, striping bike lanes, or other improvements to the street system which serves the subject property where the existing street system will be burdened by the applicant's proposal or the proposal would create health or safety issues if unmitigated.
  - i. Improvement or enlargement of utilities serving the subject property where the existing utilities system will be burdened by the proposal. Improvements may include but shall not be limited to extension of utility facilities to serve the proposed use and installation of fire hydrants.
  - j. Landscaping shall comply with the appropriate zoning district's landscape requirements within the Zoning Ordinance.
  - k. Transit facility or an easement for bus pullout if on a mass transit route.
  - l. Location or orientation of buildings and entrances closer to the street to serve pedestrians, bicyclists and/or mass transit use.

- m. Any other limitations or conditions necessary to achieve the purpose of this Ordinance.
7. Site Plan Criteria. Approval shall be based on the following criteria:
- a. Safety and privacy. Residential site plans shall be designed to provide a safe living environment, while offering appropriate opportunities for privacy and transition from public to private spaces.
  - b. Special needs of the disabled. When deemed appropriate the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs, drop curbs, and disabled parking stalls.
  - c. Preservation of the natural landscape. The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve the applicant's functions. Preserved trees and shrubs shall be protected during construction.
  - d. Pedestrian and vehicular circulation and parking. The location and number of points of access to the site, sidewalks, the interior circulation patterns, designs of parking areas, and the separation between pedestrians and moving and parked vehicles shall be designed to promote safety and avoid congestion on adjacent streets.
  - e. Buffering and screening. Area, structures, and facilities for storage, machinery and equipment, services (main, refuse, utility wires, and similar materials), loading and parking, and similar accessory areas and structures shall be designed, located, buffered, or screened to minimize adverse impacts on the site and neighboring properties.
  - f. Utilities. All new utility installations shall be underground for any development to be constructed within the City Limits, Urban Growth Boundary and other areas, which may be served by City utilities, so as to minimize adverse impacts on the site and neighboring properties. If a development causes an impact on City facilities, the Public Works Director shall determine if the developer is required to place the existing utilities underground.
  - g. Public facilities. The proposal shall not be an undue burden on public facilities, such as street, sewer or water systems.
  - h. Landscaping requirements pursuant to Section 3.5.1(N) or Section 3.6 (O).
  - i. Drainage. Surface drainage shall be contained on-site and approval shall be determined by the Public Works Director and City Engineer.

- C. The Community Development Director may (at his/her discretion) forward a site plan application, with recommendations and/or comments from the Site Plan Committee to the Planning Commission, City Council, or Hearings Officer for determination of application.
- D. **APPEAL.** The applicant or any interested person may appeal a decision of the Site Plan Committee to the City Council, in accordance with the procedures of Section 9.22.
- E. **REVISIONS.** Revisions made by the applicant to an approved site plan, shall be made pursuant to the procedures set forth in this section. Where required site plan approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction, alteration, improvement, or use in any manner except in complete and strict compliance with the approved site plan.
- F. **TIME LIMIT ON SITE PLAN APPROVAL** – Authorization of Site Plan Approval shall become void after one (1) year unless a building permit has been obtained and remains valid and active.

**SECTION 4.9 MOVING BUILDINGS.** No structure shall be moved within or into the City without conforming to this Ordinance, building codes and other applicable ordinances of the City. A moving permit shall be obtained from the City.

- A. **REQUIREMENTS.** Within six (6) months after a building has been moved onto a lot within the City, the building shall have been placed upon its foundation in accordance with the building code. The building must have been so remodeled and redesigned as to meet requirements of state building codes. All scrap lumber, trash, debris, and other materials including timbers and equipment for the moving of said building shall have been removed from the premises; and all holes, underground structures, and excavations shall be filled to the rough grade level as indicated in the building permit. No such building shall be occupied until all the above requirements have been met.

While moving is in progress, the owner of said building shall protect passers-by and citizens of the City from injury, due to conditions of the building, or the property from which the building was moved. No building shall be left on the streets of the City after sunset, unless the owner has obtained permission of the City Council. The owner of the building or the mover shall provide flares and a night watchman for protection of the citizens using said streets.

- B. **CLEAN-UP REQUIRED.** Within ten (10) days after a building is moved, the lot from which the building was moved, must be cleared of all debris including pipe, concrete, scrap lumber, and other materials, which will cause a health hazard, nuisance, or constitute a danger; all basements, abandoned septic tanks and wells must be filled with earth, except that upon written application made to the City Council may give permission

for useful basements or other structures to remain; provided, the same are fenced or left open only for such period of time as the Council may allow. Failure to comply with this subsection shall be deemed a nuisance and subject to the abatement procedures identified in the City's Nuisance Ordinance and any other penalties provided for in this Ordinance.

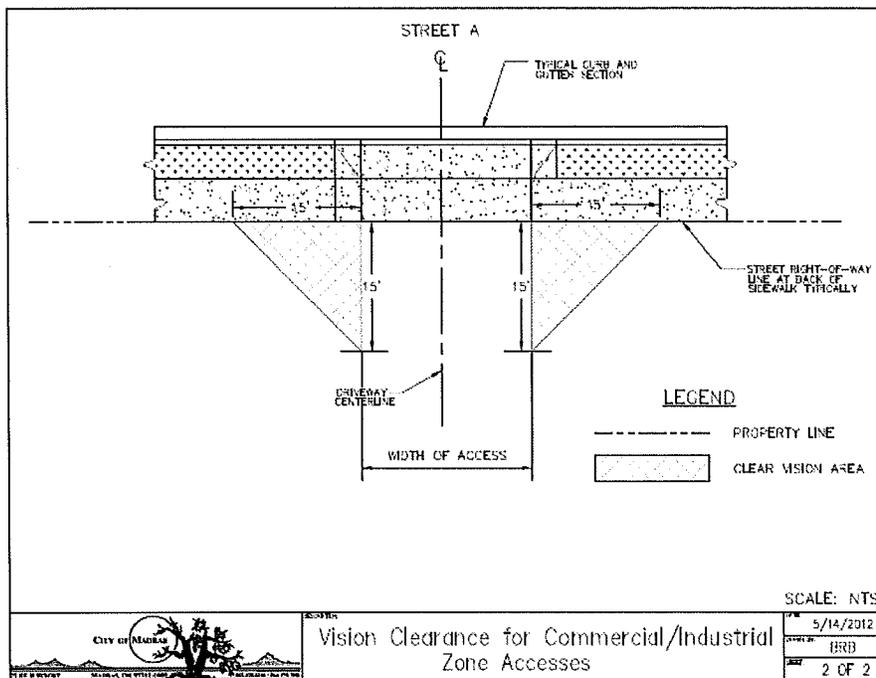
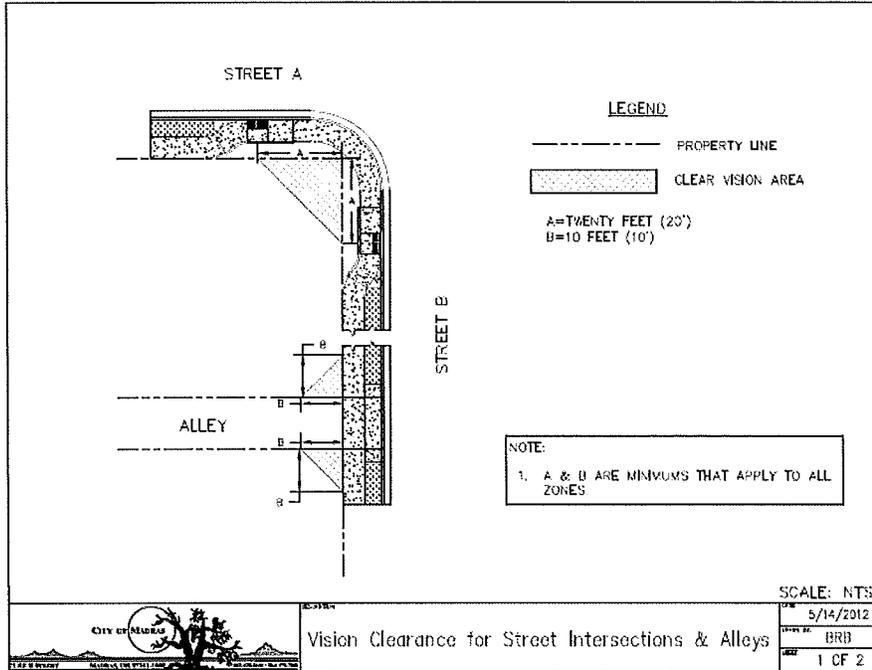
**SECTION 4.10 ILLEGAL OCCUPANCY.** Any use of premises or a building, which deviates from, or violates any of the provisions of this Ordinance shall be deemed an illegal occupancy and the persons responsible shall be subject to the penalties herein provided.

**SECTION 4.11 VISION CLEARANCE.** Vision clearance shall be provided in all zoning districts with the following distances establishing the size of the vision clearance area as described below and shown in Figure 1:

- A. The minimum distance shall be twenty feet (20') at intersections comprising of two (2) streets, or one (1) street and a railroad right-of-way.
  1. Exception: Does not apply to Downtown Commercial Zone (C2).
- B. At intersections of a commercial / industrial access, the minimum distance shall be fifteen feet (15').
- C. At intersections including an alley, the minimum distance shall be ten feet (10').

**[FIGURE 1 ON NEXT PAGE]**

Figure 1



**SECTION 4.12 SIGNS.** Sign placement and size shall be regulated according to the City's sign ordinance.

**SECTION 4.13 HISTORIC STRUCTURE PRESERVATION.** Upon receiving an application for demolition or major exterior alteration involving an historic area, site, structure, or object, as designated by the Comprehensive Plan, the Planning Commission in a public meeting shall review the application to determine its conformance with the Historic Preservation factors of this Ordinance.

The City shall allow owners of inventoried historic resources to refuse historic resource designation at any time prior to adoption of the designation and shall not include a site on a list of significant historic resources if the owner of the property objects to its designation.

The City shall allow a property owner to remove from the property a historic property designation that was imposed on the property by the local government.

The City shall not issue a permit for demolition or modification of a historic structure within 120 days from the date the property owner requested the removal of a historic structure designation from the property.

- A. Demolition Procedure - If it is determined the Land Use action will result in the demolition or extensive exterior modification of any historical building, the Planning Commission shall review the application taking into account the following:
1. State of repair of the building.
  2. The reasonableness of the cost of restoration or repair.
  3. The purpose of preserving such designated historical building and sites.
  4. The character of the neighborhood.
  5. All other factors the Planning Commission feels are appropriate.

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

- B. Major Exterior Alteration Procedure: Exterior alterations shall be in accordance with the following:

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

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

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

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

**SECTION 4.14 MINIMUM STANDARDS FOR THE CONSTRUCTION OR ALTERATION OF SERVICE STATIONS.**

Any service station which is constructed or undergoes major alteration after the effective date of this ordinance shall conform to the following standards:

- A. Location. No portion of any service station shall hereafter be constructed within 1,500 feet of any part of a building housing another service station, except where such other service station is abandoned and subject to removal under this section.

B. Minimum Lot Size.

1. The minimum lot size for a service station site shall be 10,000 square feet on a corner lot and 12,000 square feet on any other lot.
2. The minimum street frontage on the major traffic-carrying street of a corner lot shall be one-hundred feet (100').
3. The minimum street frontage for a service station site on other than a corner lot shall be one-hundred twenty feet (120').
4. The minimum lot depth shall be one-hundred feet (100').

C. Setbacks. The service station and any attached or free standing canopies on the service station property shall be set back not less than ten feet (10') from any property line.D. Screening.

1. When property used for a service station abuts on property used for residential purposes, there shall be placed along the boundary between the residential property and the service station a solid wall or fence six feet (6') high, or as an alternative, an evergreen hedge at least four feet (4') high and capable of attaining a height of six feet (6').
2. Any area used for the storage of trash or other waste shall be screened by a solid wall or fence which prevents the said objects from being visible from any public street or sidewalk.

E. Landscaping shall comply with the "Commercial" zoning district's section governing landscaping.F. Lighting.

1. Lighting shall be illumination, direction, color, and intensity as not to create a nuisance on adjacent property or to create a traffic hazard.
2. Wiring for the business and its signs and out door light fixtures shall be underground. Structural exterior lighting shall not project directly into an abutting lot.

Not be able to see source of light, or light reflective or amplifying device from outside property line.

No structure shall have blinking, strobe, or rotating light(s) unless required by FAA.

Lighted poles shall not exceed twenty feet (20') in height.

- G. Major Alteration. "Major alteration" shall include any improvement, expansion, or structural change, which does not constitute ordinary upkeep or minor repairs.
- H. Off-Street Parking. If available, or practical, off-street parking may be provided for the employees and operators of the service station.
- I. Permitted Activities. A service station may engage in the following activities, which are incidental to its use as a service station: the sale and installation of motor vehicle accessories, motor vehicle repairs, and any other sale, service, or activity customarily provided by service stations.

#### **SECTION 4.15 SERVICE STATION ABANDONMENT.**

- A. Abandonment. Whenever a service station is not in use as a service station for a continuous period of twelve (12) months, all structures and facilities (above and below the ground) located on the lot, which were connected with the operation of the service station, shall be removed, unless said structures are converted to another use as allowed by the Planning Commission. It shall be the primary responsibility of the owner of the improvements to comply with the directives of this Ordinance, however, where different, the owner of the real property shall be jointly responsible.
- B. All service stations, which are unused for twelve (12) months, as provided above, are hereby declared to be nuisances and subject to abatement pursuant to the City's Nuisance Ordinance as well as any other remedies available to the City under this Ordinance.
- C. Inspections. The Public Works Director or the Community Development Director may, at his/her discretion, make periodic inspections to determine compliance with this Section 4.15

**SECTION 4.16 RIPARIAN HABITAT PROTECTION.**

- A. Riparian Corridor - A riparian corridor boundary (along Willow Creek within the City Limits and Urban Growth Boundary) is hereby established at 50' from the top of each bank.
- B. Activities Within the Riparian Area
1. The permanent alteration of the riparian area by grading, or by the placement of structures of impervious surfaces is prohibited, except for the following uses provided they are designated to minimize intrusion into the riparian area, and no other options or locations are feasible:
    - a. Streets, roads, and paths;
    - b. Drainage facilities, utilities, and irrigation pumps;
    - c. Water-related and water-dependent uses;
    - d. Replacement of existing structures in the same location that do not disturb additional riparian surface area.
    - e. Structures or other non-conforming alterations existing fully or partially within the riparian area, may be expanded provided the expansion does not occur within the riparian area. Substantial improvement of a non-conforming structure in the riparian area shall require compliance with the standards of this Ordinance.
    - f. Existing lawn within the riparian area may be maintained, but not expanded within the riparian area. Development activities on the property shall not justify replacement of riparian area with lawn.
    - g. 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 Director and appropriate natural resources agency staff. Such alteration of the riparian area 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 is prohibited, except for:
    - a. Removal of non-native vegetation and replacement with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall meet or exceed the density of the removed vegetation.

- b. Removal of vegetation for the development of approved water-related or water-dependents uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent or water-related use.
    - c. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from this department. If no hazard will be created, the department may require these trees, once felled, to be left in place in the riparian area.
  3. Exceptions: The following activities are not required to meet the standards of this section.
    - a. Commercial forest practices regulated by the Oregon Forest Practices Act.
    - b. Normal and accepted farming practices other than building or structures, occurring on land zoned for exclusive farm use and existing in the riparian area since prior to the date of adoption of this Ordinance.

C. Alteration Requiring Mitigation

1. Permanent alteration of the riparian area by placement of structures or impervious surfaces is allowable under the following procedures, subject to the mitigation requirements of subsection B (1).
  - a. A setback adjustment as allowed under subsection C (3) (b).
  - b. A variance to the riparian setback approved through the procedures of subsection C (3)(b).
2. Proposals for development activities within the riparian area allowed in subsection C (3) (a) shall be reviewed by the Oregon Department of Fish and Wildlife (ODFW), as per OAR 635-415 Fish and Wildlife Habitat Mitigation Policy. A mitigation recommendation shall be obtained from ODFW. For purposes of implementing Goal 5, the goal is no net loss of protected resources; correspondingly, for purpose of designing appropriate mitigation sites should be considered at least in "Habitat Category 2" (OAR 635-415-030), which strives for no net loss of habitat values. Approval of the development proposal shall be conditional, requiring compliance with the mitigation recommendations of ODFW.
3. Setback Adjustment

- a. Qualifying lots: Lots on which the riparian setback required by this Ordinance exceeds any other setbacks in a particular yard, and which, when combined with other required setbacks, results in a building area depth of 25 feet or less, or a building envelope of 800 square feet or less.
- b. Setback reduction procedure: Setback reduction shall be the minimum necessary to create a building envelope, 25 feet deep, or a building envelope of 800 square feet (whichever requires a lesser reduction of the setback). The setback opposite the riparian area may be reduced up to  $\frac{1}{2}$  the standard setback. If this does not create a sufficient building envelope, the riparian setback may be reduced up to  $\frac{1}{2}$  the required setback. Additional reductions of setbacks require a variance (see Section 5.5). Removal of vegetation within the original riparian setback shall be the minimum necessary to allow development of the use, and shall otherwise conform with the standards of Section 2(b) of this Ordinance.

**SECTION 4.17 WETLAND NOTIFICATION.** Written notice shall be provided to the Oregon Division of State Lands (DSL) of applications, which involve lands that are wholly or partially within areas that are identified as wetlands on the Statewide Wetlands Inventory. Wetland boundaries shall be verified in the field by a qualified professional before any application for development in or adjacent to a wetland is accepted as complete.

- A. Notice shall be sent within five (5) working days of the acceptance of a complete application for a subdivision, building permit for new structure, planned development, or any other development permit or approval that allows physical alteration of the land involving excavation, grading, fill, or construction on the land, and any development in a floodplain or floodway.
- B. Notice shall be sent if the City receives information that there is a possible wetland on the subject property following acceptance of the application.
- C. Notice is not required for any application listed in Section 4.17, if a permit has been issued by the Division of State Lands for that activity.
- D. If the Division of State Lands fails to respond to the notice from the City within in thirty (30) days of the postmark date of the notice, the City may issue an approval for the proposed activity with written notice to the applicant and owner of record that the proposed activity may require state or federal permits.
- E. The City may issue an approval for a comprehensive plan map or zoning map amendment for parcels identified as, or including wetlands on the Statewide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for the state

and federal permits and providing the Division of State Lands with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

- F. The City may issue approval for any activity listed in Section 4.17 providing that the approval includes one of the following statements.
  - 1. Issuance of a permit under ORS 196.665 and 196.800 by the Division of State Lands is required for the proposed project before any physical alteration takes place within the wetlands.
  - 2. Notice from the Division of State Lands that no permit is required; or
  - 3. Notice from the Division of State Lands that no permit is required until specific proposals to remove, fill, or alter the wetlands are submitted to the division.
  
- G. Notice of activities authorized within an approved wetland conservation plan shall be provided to the Division of State Lands within five (5) days following approval by the City.
  
- H. Failure of the City to provide notice to the Division of State Lands as required in this section will not invalidate City approval of the proposed activity.

**SECTION 4.18: FLAG POLE STANDARDS.** The height and illumination of flag poles shall comply with the provisions of Table 4.18(A)-Flag Pole Regulations below.

**TABLE 4 18(A) Flag Pole Regulations**

Zoning District	Maximum Flag Pole Height	Illumination Permitted	Illumination Requirements
R-1, R-2, R-3	No greater than 5 feet above dwelling Height	Yes	Full cut-off fixtures, up lighting
C-1, C-2, C-3	35 feet	Yes	Full cut-off fixtures, up lighting
NC	20 feet	Yes	Full cut-off fixtures, up lighting
I	35 feet	Yes	Full cut-off fixtures, up lighting
OS/PF	35 feet	Yes	Full cut-off fixtures, up lighting
AD	35 feet	Yes, Subject to FAA approval	Full cut-off fixtures, up lighting, and subject to compliance with the applicable FAA regulations

ARTICLE 5: EXCEPTIONS AND VARIANCES

SECTION 5.1 NON-CONFORMING USES.

- A. Subject to the provisions of this Ordinance, a non-conforming use initiated prior to the effective date of the provision of the Zoning Ordinance that made the use non-conforming, may be continued provided the use remains otherwise lawful and is conducted in a safe manner.
- B. If a non-conforming use is discontinued for a period of one (1) year, further use of the property shall conform to this Ordinance.
- C. If a non-conforming use is replaced by another use, the new use shall conform to this Ordinance.
- D. Non-conforming uses may only be altered as provided in this Section 5.1(D). Unless otherwise provide for herein, a proposal for the alteration of a non-conforming use shall be determined by the Planning Commission.
  1. Alteration of a non-conforming use, unless otherwise excepted for herein, includes any material change in the nature of the non-conforming use including, but not limited to, an expansion of the use, an increase in the intensity of the use, a change in the operating hours of the use, or a change in the location of the use within the property.
    - a. The expansion of a non-conforming use to a portion of a structure, which was arranged or designed for the non-conforming use at the time of passage of this Ordinance, is not an enlargement or expansion of a non-conforming use.
    - b. A change of ownership or occupancy shall be permitted and is not considered an alteration of a non-conforming use..
  2. Any alteration in a non-conforming use shall have no greater adverse impact to the neighborhood.
  3. A public hearing before the Planning Commission shall be scheduled by the Community Development Director, after receiving the applicant's application requesting the alteration of a non-conforming use.
  4. All parties affected by the requested alteration of a non-conforming use shall be notified of the hearing before the Planning Commission. For purposes of this subsection (4), the owners of property within two-hundred fifty feet (250') of the subject property shall be deemed affected as well as those parties that have specifically requested notice.

5. The public hearing shall be conducted before the Planning Commission and the decision shall be final unless appealed to the City Council pursuant to Sections 9.6 through 9.24 of the Zoning Ordinance.

### **SECTION 5.2 NON-CONFORMING STRUCTURES.**

- A. Subject to the provisions of this Ordinance, a non-conforming structure constructed prior to the effective date of the provision of the Zoning Ordinance that made the structure non-conforming, may be maintained provided the structure remains otherwise lawful and is maintained in a safe manner. Non-conforming structures may only be altered or expanded as provided in this Section 5.2.
- B. A non-conforming structure may be rebuilt if destroyed by fire or natural causes, as long as the structure is rebuilt within one (1) year from the date of the destruction of the structure. If the one year time frame is exceeded any structure built must be in conformance with the Zoning Ordinance.
- C. If the owner or occupant wishes to enlarge or alter an existing non-conforming structure in a manner which would increase the non-conformity, the owner shall apply for a Conditional Use Permit.
- D. If an applicant proposes to reduce the non-conformity of the structure, the application shall be reviewed using the regular review process applicable to the development.
- E. Location. Should such development be moved for any reason and by any distance, either within or outside the site on which it was established, it shall thereafter conform to all of the regulations of the Development Code.
- F. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued by the City and construction has commenced prior to the adoption of the provisions of this Zoning Ordinance, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the time the building permit is issued.

**SECTION 5.3 NON-CONFORMING LOTS OF RECORD.** Any lot that is smaller than the minimum area required in any zone may be occupied by an allowed use in that zone provided that:

- A. The lot was in a duly platted and recorded subdivision on, or before the date of Ordinance No. 252, which was adopted on February 18, 1964, or was a parcel created by an approved land partition prior to the enactment of Ordinance No. 252, which was adopted on February 18, 1964.

- B. The use or structure conforms to all other requirements of that zone.
- C. If there is an area deficiency, residential use shall be limited to a single dwelling unit.

#### **SECTION 5.4 VARIANCES.**

- A. Evidence: A variance may be granted where the applicant can show that they have met the criteria in Section 5.5 of this Ordinance.
- B. Procedure. Upon receipt of a complete application and payment of the applicable fee, the Community Development Director shall either review the application administratively for a minor variance or schedule a public hearing before the Planning Commission for a major variance.
- C. Notice of Public Hearing. Where a public hearing is scheduled, the Community Development director shall mail notice of the hearing to adjacent property owners within two hundred fifty feet (250') of the boundaries of the subject property, the applicant, interested persons, and cause the notice to be published in a newspaper of general circulation within the City, at least twenty (20) days or no more than forty (40) days from the date of the public hearing. The notice provided by the jurisdiction shall:
  - 1. Explain the nature of the application and the proposed use(s) or structure(s) which could be authorized;
  - 2. List the applicable criteria from the ordinance and the plan that apply to the application at issue;
  - 3. Set forth the street address or other easily understood geographical reference to the subject property;
  - 4. State the date, time and location of the hearing;
  - 5. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
- D. For major variance requests, a public hearing shall be scheduled before the Planning Commission following the procedures established in Section 9.6.
- E. The decision on a variance application shall be final unless appealed under Section 9.22. An appeal of a variance decision shall follow the appeals process outlined in Sections 9.23 and 9.24.

1. The City Council shall review a variance decision on the record without hearing further evidence. The Council may reverse, affirm, or modify any aspect of the decision.
2. The City Council decision may be appealed to the Land Use Board of Appeals (LUBA) within twenty one (21) days of the date the City Council decision is mailed.

**SECTION 5.5 CIRCUMSTANCES FOR GRANTING A VARIANCE.** Except as otherwise provided for in this Section 5, a variance may only be granted when all of the following circumstances exist:

- A. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of property have had no control.
- B. The variance is necessary to afford the applicant comparable property rights to those of owners of other property in the same zone or vicinity.
- C. The variance would not be materially detrimental to the purposes of this Ordinance, or to other property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
- D. The variance requested is the minimum variance which would alleviate the hardship.
- E. The variance is not the result of a self-created hardship.
- F. The variance will not create a condition unduly detrimental to the health or safety of adjoining properties, pedestrians, motorists, or the community at large.
- G. If the applicant requests a variance from any regulation governing development within a Flood Hazard Area, including those contained within the City's Flood Damage Prevention Ordinance, Ordinance No. 469, the Applicant shall additionally satisfy the applicable criteria of this subsection (G).
  1. The City shall approve, approve with conditions, or deny an application for a variance to Flood Hazard Area regulations based on all of the following criteria:
    - a. The danger that materials may be swept onto other lands to the injury of others;
    - b. The danger to life and property due to flooding or erosion damage;

- c. The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed development to the community;
  - e. The necessity to the development of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposal that are not subject to flooding or erosion damage;
  - g. The compatibility of the proposal with existing and anticipated development;
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
2. A variance may be issued for the reconstruction, rehabilitation, or restoration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places per this subsection (G)(2).
  3. A variance shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
  4. A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  5. A variance shall only be issued upon:
    - a. A showing of good and sufficient cause;
      - i. The following shall NOT be considered good and sufficient cause for a variance:
        1. The value of the property will be somewhat reduced without a variance.

2. The proposed development could be pursued elsewhere on the property albeit at additional cost.
  3. The owner doesn't have enough money to comply.
  4. The property will look different from others in the neighborhood.
  5. The owner started building without a permit and there are additional costs to bring the building into compliance
- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A variance as interpreted in the National Flood Insurance Program is based on the general zoning law principle that it pertains to a physical piece of property; it is not personal in nature and does not pertain to the structure, its inhabitants, economic or financial circumstances. It primarily addresses small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
  7. A variance may be issued for a nonresidential building in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria.
  8. Any applicant to whom a variance is granted shall be given notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A decision to grant a variance allowing the construction of a building below the BFE shall contain a notice to the applicant that the variance will result in increased flood insurance premium rates up to \$25 per \$100 of coverage.

**SECTION 5.6 EXCEPTIONS TO MAXIMUM BUILDING HEIGHT STANDARD.** Chimneys, bell towers, steeples, roof equipment (including minimum screening necessary to conceal mechanical roof equipment), flagpoles, and similar features that are not intended for human occupancy may be considered exceptions to the maximum building height subject to an application for a height variance in accordance with this Section 5.6.

1. Variance to Maximum Height. The City may grant a variance to the maximum height limitations, when no other exception or exemption is provided by this Ordinance, if the following criteria are met:
  - a. The proposed height does not create a burden on the City's Fire Department for firefighting requirements.
  - b. The location, size, design characteristics of the proposed structure shall have minimal adverse impact on the property values and livability of permitted development in the surrounding area.
  - c. The structure will provide an aesthetically pleasing and functional environment as well as relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features to the greatest extent practical.
  - d. The requested height is the minimum deviation necessary.

**SECTION 5.7 TIME LIMIT ON A PERMIT FOR A VARIANCE.** Authorization of a variance shall be void after one (1) year unless substantial construction has taken place. However, authorization for an extension may be granted by the Community Development Director for an additional period not to exceed one (1) year, upon written request by the applicant. The written request by the applicant must be received by the Community Development Department prior to the expiration date of the variance approval.

**SECTION 5.8 LIMITATION ON REAPPLICATION.** No application of a property owner for a substantially similar variance shall be considered by the Planning Commission within a one (1) year period immediately following a previous denial of such request.

ARTICLE 6: CONDITIONAL USES

SECTION 6.1 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

- A. Conditional Uses listed, or otherwise described in the Zoning Ordinance may be permitted, enlarged or otherwise altered, upon authorization by the Planning Commission in accordance with the standards and conditions in this Article the Planning Commission may elect to forward any request to the City Council for determination. In permitting a Conditional Use or the modification of a Conditional Use, the Planning Commission may impose any additional conditions necessary to protect the best interests of the surrounding property or the City as a whole.
- B. Standards for granting Conditional Uses are:
1. The proposal is consistent with the Comprehensive Plan.
  2. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use or structure, considering building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations
  3. Taking into account location, size, design, and operating characteristics, the proposal, including any proposed conditions of approval, is compatible with and will have a minimal adverse impact on abutting properties and the surrounding area in terms of:
    - a. livability,
    - b. property values, and
    - c. development opportunities
  4. The proposal will not place an excessive burden on urban services including, but not limited to, sewage, water supply, parks, schools, police, fire, and transportation infrastructure .
- C. In permitting a new Conditional Use the Planning Commission may impose (in addition to those standards and requirements expressly specified by this Ordinance) additional conditions, which the Planning Commission considers necessary to protect the best interests of the surrounding area or the City as a whole. These conditions may include, but are not limited to the following:
1. Increasing the required lot size or setbacks.

2. Limiting the height, size, or location of buildings.
  3. Controlling the location and number of vehicle access points.
  4. Increasing street standards.
  5. Increasing the number of required off-street parking spaces.
  6. Limiting the number, size, location, and lighting of signs.
  7. Require diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
  8. Designating sites for open space.
  9. Limiting the hours, days, place and/or manner of operation.
  10. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust.
  11. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved.
  12. Limiting the number, size, location, height and/or lighting of signs.
  13. Any other condition necessary to achieve the objectives of this Zoning Ordinance.
- D. Where a Conditional Use was initiated prior to the requirement for Conditional Use approval, any change in the use, lot dimensions, or structures shall require Conditional Use approval consistent with the present requirements for Conditional Uses.

**SECTION 6.2 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE.** The procedure for taking action on a Conditional Use application shall be as follows:

- A. A property owner may initiate a request for a Conditional Use by filing an application with the Community Development Department.
- B. Before the Planning Commission may act on a Conditional Use application a public hearing shall be held pursuant to Sections 9.3, and Sections 9.6 to 9.18.
- C. The decision of the Planning Commission shall be final unless appealed under Section 9.22. An appeal of a Planning Commission decision shall follow the appeals process as outlined in Sections 9.23 and 9.24.

1. The City Council shall review the decision of the Planning Commission on the record without hearing further evidence. The Council shall affirm the decision of the Planning Commission or may modify any conditions of approval made by the Planning Commission.
2. The City Council decision on the Planning Commission action may be appealed to the Land Use Board of Appeals (LUBA) within twenty one (21) days of the date the City Council decision is mailed.

**SECTION 6.3 TIME LIMIT.** Authorization of a Conditional Use shall be void after one (1) year unless a building permit has been obtained and remains valid. However, a written request to extend the time limit for an additional period not to exceed one (1) year may be submitted to the Community Development Department..

**SECTION 6.4 LIMITATION ON REAPPLICATIONS.** No substantially similar Conditional Use application shall be considered by the Planning Commission within a one (1) year period immediately following a previous denial of such request unless amendments to the Zoning Ordinance would now allow the previously denied application.

## ARTICLE 7: ANNEXATION

### SECTION 7.1 PURPOSE. The purpose of this section is to:

- A. Implement the policies of the Comprehensive Plan;
- B. Provide for City review of all annexation requests for a determination of the availability of facilities and services as related to the proposal;
- C. Provide for dissemination of public information and for sufficient time for public review;
- D. Provide for City and County coordination of a request for an annexation; and
- E. Provide for an expedited process by establishing procedures whereby the annexation and zoning, if applicable, may be considered concurrently.
- F. Process annexations consistent with state law.

### SECTION 7.2 ANNEXATION PROCEDURE.

Annexation is a legislative land use decision and is subject to applicable provisions of the City of Madras Comprehensive Plan, Oregon Revised Statutes, and Oregon Administrative Rules. An annexation petition may be initiated by any person or by the City Council by resolution. Except as otherwise provided in Sections 7.5 through 7.8 or by state law, annexation petitions shall follow the procedures set out below:

- A. Any person who wishes to petition for the annexation of territory to the City shall participate in a pre-application conference prior to filing a petition for annexation. The purpose of the pre-application conference shall be to inform the person of the process for annexing territory into the City and to discuss the annexation proposal.
- B. Petitioners shall submit a completed petition on the form prescribed by the City, along with the applicable fee, to the City of Madras Community Development Department.
- C. If the submitted petition for annexation is complete, the Community Development Director shall schedule a Public Hearing before the City's Planning Commission, followed by a Public Hearing before the City Council for a decision on the proposed annexation. Notice will be provided and comments solicited from affected City Departments, state agencies, and special districts.

- D. The Community Development Director, or a designee, shall prepare a report summarizing solicited comments and indicating the degree to which the petition is consistent with the provisions of this Code and other applicable criteria including, but not limited to, compliance with existing approvals and agreements.
- E. The Planning Commission shall conduct a public hearing to determine a recommendation to the City Council to approve, approve with conditions or modifications, or disapprove the feasibility of the annexation proposal based on the applicable criteria as set forth in Section 7.3 below. The Planning Commission shall state its recommendation, along with supporting rationale, in writing.
- F. The City Council, by ordinance, may approve the annexation following a public hearing and after making findings that the criteria set out in Section 7.3 below have been met.
- G. All public hearings for an annexation petition shall be noticed in accordance with ORS Chapter 222. Additionally, where an annexation, if approved, would create an island of unincorporated property, those property owners of record within the potential island shall be notified. Such notification shall expressly alert the owners of the potential for formation of an island.
- H. Where a vote on a proposed annexation is required, the City shall submit the question to the Jefferson County Clerk. If, following the vote, the City Council finds that a majority of the eligible votes cast are in favor of the annexation, the City Council shall, by ordinance, proclaim the annexation.
- I. Territory annexed into the City shall automatically be given the comprehensive plan designation and zoning designation that is the equivalent to the applicable county designations unless one or more of the following apply:
  - 1. The petitioner requests a new comprehensive plan designation, or zone designation other than the equivalent City designation in the petition for annexation and files a separate application for zone change and plan amendment;
  - 2. The City Council proposes a new comprehensive plan designation, or zone designation other than the equivalent City designation in the ordinance proclaiming the annexation; or
  - 3. The equivalent City designation is inconsistent with the City of Madras Comprehensive Plan, in which case a plan amendment and/or zone change application will be required.

**SECTION 7.3 PETITION FOR ANEXATION.** The petitioner for annexation shall complete a petition on the form provided by the Community Development Department and remit the applicable fee. The petition shall include:

- A. A map depicting the proposed annexation;
- B. Specific information on each parcel within the proposed annexation area, including:
  - 1. Current assessed valuation as shown on the Jefferson County Assessor's tax rolls;
  - 2. Acreage of both public and private property to be annexed;
  - 3. Map and tax lot number(s);
  - 4. A legal description of the territory to be annexed, meeting the relevant requirements of ORS 308.225; and
  - 5. The situs address
  - 6. The owner of record and mailing address of the owner of record.
- C. A list of registered voters in the proposed annexation area.
- D. Where applicable, Consent to Annexation forms, provided by the City, with notarized signatures of all property owners and electors within the proposed annexation area.
- E. Written findings, which address the following:
  - 1. Existing land uses within annexation area.
  - 2. Existing zoning within the annexation area and proposed zoning that is consistent with the Comprehensive Plan.
  - 3. Whether the annexation area includes the jurisdiction of any special district as defined by ORS 198.010 and whether the annexed area will be withdrawn from the jurisdiction of the special district.
  - 4. The present availability of urban services within the proposed annexation area, a description of existing infrastructure, the present capacity of existing urban services and supporting infrastructure, the cost of extending and/or improving urban service infrastructure to City standards, and the method and source of financing the costs of extending and/or improving urban service infrastructure to City standards for the following services:

- a. sanitary sewers
- b. storm drainage
- c. streets
- d. water
- e. fire
- f. police
- g. power
- h. schools
- i. parks

- F. Where a zone change is requested or contemplated, a statement indicating the type and nature of any comprehensive plan text or map amendment or zoning ordinance or zoning map amendments that will be sought. A separate zone change and/or plan amendment application shall be filed and may be processed concurrently.

**SECTION 7.4 ANNEXATION CRITERIA.** Except as otherwise provided in Sections 7.5 through 7.8 or by state law, lands may be annexed only if the City Council finds that the following criteria are met:

- A. The annexation complies with all applicable provisions of ORS 222.
- B. The proposed annexation area is contiguous to the City Limits as defined in and as required by ORS 222.
- C. The property is located within the Urban Growth Boundary.
- D. The annexation meets at least one of the following purposes:
  1. To serve lands needing City water or sewer to alleviate a present or potential health hazard; or
  2. To provide land to accommodate future urban development; or
  3. To provide land for provision of needed transportation or utility facilities; or
  4. To ensure that lands adjacent to the City are developed in a manner consistent with City standards.
5. The annexation is otherwise permitted by the applicable state law.
- E. The annexation is timely and the petitioner has adequately addressed infrastructure supply and demand issues. This criterion is satisfied where:

1. An adequate level of the urban services identified in Section 7.3(E)(4) and infrastructure supporting those urban services is presently provided in the annexation area;
2. The City and other service providers are readily capable of extending or upgrading urban services and infrastructure to the area proposed for annexation without undue cost, negatively impacting existing systems, or inhibiting the adequacy of urban services to existing areas within the City Limits; or

Where urban services and infrastructure cannot readily be extended or upgraded, that the fiscal impacts to the City and other service providers of extending or upgrading urban services and supporting infrastructure have been mitigated through an Annexation Agreement or other mechanism approved by the City Council.

- F. The proposed annexation complies with the Comprehensive Plan.
- G. The proposed annexation is compatible with the existing topography, potential for future land division, natural hazards and other related considerations.
- H. The City Council may require an Annexation Agreement or otherwise condition approval of an annexation as necessary to achieve compliance with the provisions of this Section 7.4.

**SECTION 7.5 ANNEXATION BY CONSENT.** The City need not hold an election in the City or in any contiguous territory proposed to be annexed, or hold any hearing required by ORS 222 when all the owners of land and the requisite number of electors in that territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the City. Once consent for annexation has been executed, the City, by ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

**SECTION 7.6 ANNEXATION BY TRIPLE MAJORITY.**

- A. The City need not hold an election in the City or in any contiguous territory proposed to be annexed, or hold any hearing required by ORS 222 if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory.

Once consent for annexation has been executed, the City, by ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. At the hearing on the ordinance, property owners who have not consented to annexation may testify in favor or against its passage. All property owners shall be notified of the hearing at least 10 days prior to the hearing.

- B. The public hearing for property owners may be held at the same time as the passage of the ordinance or at another time.

**SECTION 7.7 HEALTH HAZARD ANNEXATION.** The City shall annex those areas constituting a State-declared health hazard in accordance with state law, taking into consideration the ability of the City to provide necessary services.

**SECTION 7.8. ISLAND ANNEXATIONS.** The City may initiate an annexation of unincorporated territory surrounded by the City (an "island annexation") upon filing a petition with the Community Development Department. The criteria applicable to an island annexation are set out in ORS 222, the City of Madras Comprehensive Plan, and the state land use goals. The Planning Commission shall hold a public hearing on the proposed annexation and make a recommendation to the City Council. The City Council shall then hold a public hearing on the island annexation petition after which the City Council may adopt the island annexation by ordinance. Notice of each public hearing shall be sent to the record owner of each property subject to annexation. Where properties to be annexed are zoned for, and in, residential use, the City shall establish an effective date that is at least three years, but no more than 10 years, from the date the City approves the island annexation. The City shall provide the notice of a delayed effective date to the Jefferson County Clerk in the manner described in ORS 222.750.

**SECTION 7.9 FILING OF ANNEXATION RECORDS.** The City shall report all changes in the boundaries of the City to the Jefferson County Clerk, Jefferson County Assessor, utility service providers, affected special districts, the Oregon Department of Revenue and the Oregon Secretary of State and any other entities or persons as required by State law.

## ARTICLE 8: AMENDMENTS

**SECTION 8.1 AUTHORIZATION TO INITIATE AMENDMENTS.** An amendment to the text of the Comprehensive Plan, this Ordinance, or to the zoning and comprehensive or plan map may be initiated by either City Council, Planning Commission, or the Community Development Director in order for compliance with Oregon Revised Statutes, Oregon Administrative Rules and Statewide Planning Goals. A property owner may initiate a request for a map or text amendment by filing an application with the Community Development Director.

### **SECTION 8.2 ZONE/PLAN MAP AMENDMENTS.**

#### A. Amendment to the Zone/Plan Map

1. Amendment to the Zone/Plan Map may be initiated by the Planning Commission, City Council, Community Development Director, Land Use Periodic Review, or by application of the property owner.
2. If the application is for a change of a quasi-judicial nature, the Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practical meeting date after the proposal is submitted and shall follow the adopted rules for quasi-judicial hearings.
3. The Planning Commission shall provide a recommendation to the City Council based on findings-of-fact.
4. The City Council shall hold a public hearing and review the recommendation of the Planning Commission, along with any public testimony on the issue. The City Council must take final action on an amendment request and amendments shall be made by ordinance.

#### B. Criteria for Amendments: The burden of proof is upon the applicant. The applicant shall show the proposed change is:

1. In conformity with all applicable state statutes.
2. In conformity with the applicable Statewide Planning Goals; and
3. In conformity with the Madras Comprehensive Plan and Zoning and Land Use Ordinance; and
4. That there is a change of circumstances or further studies justifying the amendment or mistake in the original zoning.

**SECTION 8.3 RECORD OF AMENDMENTS.** The Community Development Department and the City Recorder shall maintain records of amendments to the text and zoning map of the ordinance.

**SECTION 8.4 LIMITATION ON REAPPLICATION.** No application of a property owner for a rezone shall be considered by the Planning Commission within a one (1) year period immediately following a previous denial of such request.

**SECTION 8.5 NOTIFICATION OF DECISION.** Within five (5) working days after a final decision on an amendment to the Comprehensive Plan, Zoning Ordinance text or plan/zone map, the Community Development Department shall provide the applicant and the Department of Land Conservation and Development a complete copy of the City Council decision; and shall also provide notice of the decision to all persons who participated in the local proceedings and requested in writing that they be given notice. The notice shall meet the requirements of ORS 197.615.

## ARTICLE 9: ADMINISTRATIVE PROVISIONS

**SECTION 9.1 BUILDING PERMITS.** No permit shall be issued by the building official for the construction, reconstruction, alteration, or change of use of a structure or lot that does not conform to the requirements of the Zoning Ordinance.

**SECTION 9.2 LAND USE PERMIT.** The words Land Use Permit, as used in this article, means any permitted use of land, other than a building, sign, sanitation, or utility connection permit.

**SECTION 9.3 ADMINISTRATIVE ACTIONS.** An application for a Land Use Permit, other than a Subdivision, Site Plan, Planned Unit Development, Comprehensive Plan Map Amendment, Zone Change and Master Planned Community Development Plan, or as otherwise specified in this Zoning Ordinance may be decided as an administrative action.

- A. Such an application shall be made to the Community Development Director who may act upon the application or refer the application to the Hearings Body for hearing.
- B. Notice of the application shall be sent within ten (10) days of the receipt of the application to persons entitled to notice as provided in Section 9.8.
- C. Any person may comment in writing on the application within ten (10) days from the date notice was mailed.
- D. The Community Development Director's decision shall be made within twenty (20) days after the mailing of this notice.
- E. The applicant and all persons commenting as provided in this section constitute parties to the administrative decision. Any party can appeal the decision in accordance with Section 9.21 of this article. On appeal, a de novo hearing shall be held.

### **SECTION 9.4 MODIFICATION OF APPLICATION.**

- A. An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process, subject to the provisions of this Article 9.
- B. The applicable review body shall not consider any evidence submitted by or on behalf of an applicant that would constitute a Modification of Application, unless the applicant submits an application for a modification, pays all required modification fees and agrees

in writing to restart the 120-day review period as of the date the modification is submitted. The 120-day review period for an application, as modified, may be restarted as many times as there are modifications up to a total of 365 days from the day the application was accepted as complete.

- C. The applicable review body may require that the application be re-noticed and additional hearings be held.
- D. Up until the day a hearing is opened for receipt of oral testimony, the Community Development Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Hearings Body shall make such determinations. The applicable review body's determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the City on an application.

#### **SECTION 9.5 MODIFICATION OF CONDITIONS.**

- A. Purpose. To provide the applicant and or property owner a reasonable time limit and mechanism to request modification of conditions placed in an approved application.
- B. Time Limit. A request to modify conditions of an approved application may be filed with the Community Development D Department, no less than 60 days after the decision became final.
- C. The request to modify conditions must be made and submitted on a form prescribed by the Community Development Department and shall set forth one or more changes in circumstances from the time of application approval that warrant a modification to the conditions of approval. Changes in circumstances created by the Applicant, or its successors, heirs, or assigns, shall be insufficient to warrant a modification of conditions.
- D. The request to modify conditions shall be reviewed by the Planning Commission.
- E. A request for a modification of conditions shall not be a substitute for an appeal, a Modification of Application, or a re-application.

#### **SECTION 9.6 FILING OF STAFF REPORT FOR HEARING.**

- A. At the time an application requiring a hearing is filed, a hearings date shall be determined.
- B. A staff report shall be completed fifteen (15) days prior to the hearing.

- C. A copy of the staff report shall be filed with the Hearings Body, mailed to the applicant, and made available to such other persons who request a copy.
- D. Oral or written modifications and additions to the staff report shall be allowed prior to or at the time of the public hearing.

**SECTION 9.7 HEARINGS BODY ORDER.** The following shall serve as Hearings Body in this order:

- A. Planning Commission.
- B. City Council.
- C. Where the City Council feels that political or legal issues call for an independent review, the City Council may appoint a special Hearings Officer to review an application or appeal in place of the Planning Commission or City Council,.

**SECTION 9.8 NOTICE OF HEARING OR ADMINISTRATIVE ACTION.**

- A. Notice of an application for a Land Use Permit, other than a utility facility line, shall be mailed at least ten (10) days prior to the hearing for those matters set for hearing, or within ten (10) days after receipt of an application for administrative action. Written notice shall be sent by mail to the following persons:
  - 1. The applicant;
  - 2. All owners of property abutting the subject property for a distance of two hundred fifty feet (250) feet. For the purpose of determining whether property abuts another property, intervening public and private ways and water courses shall not be considered.
  - 3. All owners of property located within two-hundred fifty feet (250') of the property which is the subject of a Plan Amendment Application or Zone Change Application.
  - 4. Other persons or other properties within a larger notice radius entitled to notice as identified in this Ordinance.
- B. In addition to notice by mail or posting, a notice of a public hearing shall be published in a newspaper of general circulation within the City, no less than twenty (20) days and no more than forty (40) days prior to the public hearing.
- C. The failure of an adjacent property owner to receive mailed notice shall not invalidate any permit.

**SECTION 9.9 CONTENTS OF PUBLIC NOTICE.**

- A. All public notices shall provide the nature of the applicant's request, applicable criteria, the location of the property, public hearing date, time and place, and the right to comment in person or in writing.
- B. All notice for hearings shall contain a statement that recipients may request a copy of the staff report.

**SECTION 9.10 BURDEN OF PROOF.** The burden of proof is upon the applicant.**SECTION 9.11 NATURE OF EVIDENCE.** All relevant evidence shall be received.**SECTION 9.12 LIMITATION ON ORAL PRESENTATIONS.** The Hearings Body may set reasonable time limits on oral presentations.**SECTION 9.13 STANDING.** Any person appearing on the record at the hearing or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party.**SECTION 9.14 RECORD.**

- A. A magnetic tape record of the hearing shall be made.
- B. All exhibits presented shall be marked to show the application file number and the identity of the person offering the evidence.
- C. Exhibits shall be numbered in the order presented, in two (2) categories, Proponents and Opponents, and shall be dated.
- D. When introduced, the Proponent or Opponent exhibit number or letter shall be read into the record.

**SECTION 9.15 PROHIBITION ON PRE-HEARING (EX-PARTE) CONTACTS.** The Hearings Body or any member thereof, shall not communicate directly or indirectly with any party or his representative in connection with any land use application issue involved in a public hearing except upon notice and opportunity for all parties to participate. Any pre-hearing ex-parte contacts shall be disclosed prior to the hearing.

**SECTION 9.16 CHALLENGE FOR BIAS, PREJUDGMENT OR PERSONAL INTEREST.**

- A. Prior to or at the commencement of a public hearing, any party may challenge the qualifications of the Hearings Body, or a member thereof, for bias, prejudgment or personal interest. The challenge shall be documented with specific reasons supported by facts.
- B. Should qualifications be challenged, the Hearings Body or the member shall disqualify themselves, withdraw or make a statement on the record of their capacity to hear the request and make a decision with no bias, prejudgment or personal interest.

**SECTION 9.17 PUBLIC HEARING PROCEDURE.**

- A. A public hearing shall be conducted in the following order:
  1. The Hearings Body shall explain the purpose of the public hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
  2. A statement by the Hearings Body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.
  3. Any facts received, notified or recognized outside of the hearing shall be stated in the record.
  4. Challenges to the Hearings Body's qualifications to hear the matter shall be stated.
  5. Order of presentation:
    - a. Staff report
    - b. Proponent's presentation
    - c. Opponent's presentation
    - d. Interested parties
    - e. Proponent's rebuttal
    - f. Staff comments
    - g. Questions from or to the Chair may be entertained at any time at the Hearings Body's discretion.

**SECTION 9.18 OBJECTIONS TO JURISDICTION, PROCEDURE, NOTICE OR QUALIFICATIONS.**

- Any objections not raised prior to or during the hearing are waived.

**SECTION 9.19 NOTICE OF DECISION.** The final decision shall be in writing and mailed to all parties; provided, however, one person may be designated by the Hearings Body to be the recipient of the decision for a group, organization, group of Petitioners, or similar collection of individuals constituting parties.

**SECTION 9.20 RE-APPLICATION LIMITED.** If a specific application is denied, no re-application for substantially the same proposal may be made for six (6) months or the date specified elsewhere in this Ordinance, whichever is greater, following the date of the final decision.

**SECTION 9.21 REVIEW BY CITY COUNCIL OR PLANNING COMMISSION.**

- A. A review of an administrative action or a Hearings Body's decision may be initiated by a majority of the Planning Commission or City Council.
- B. The review shall be initiated in writing within fifteen (15) days from the date of the final written decision of the Hearings Body.
- C. A review shall be conducted in the same manner provided for in appeals.

**SECTION 9.22 APPEAL.**

- A. The decision shall be final unless a complete written notice of appeal and the applicable fee is received by the Community Development Department within fifteen (15) days of the mailing of the final written decision.
- B. Who may file an appeal:
  - 1. A party.
  - 2. A person to whom notice was to be mailed in accordance with Section 9.8 of this Ordinance, and to whom no notice was mailed.
  - 3. Planning Commission. Provided, however, any appeal by the Planning Commission shall go directly to the City Council. No fee shall be required for an appeal filed by the Planning Commission.

4. Appeal of a City Council or Special Hearings Officer decision shall be appealed to the Land Use Board of Appeals (LUBA) pursuant to ORS 197.830. A notice of intent to appeal shall be filed with LUBA no later than twenty-one (21) days after a decision becomes final (Notice of Decision mailing date).
- C. A person to whom notice is mailed is deemed notified, even if notice is not received.
- D. If more than one party files a notice of appeal on the same land use decision, the appeals shall be consolidated, noticed, and heard as one proceeding.
- E. An appeal may be withdrawn in writing by an appellant at any time prior to the rendering of a final decision. Subject to the existence of other appeals on the same application, in such event the appeal proceedings shall terminate as of the date the withdrawal is received. An appeal may be withdrawn under this section regardless of whether other non-filing parties have relied upon the appeal filed by the appellant.
- F. Any failure to conform to the requirements of Section 9.22 and 9.23 shall constitute a jurisdictional defect requiring dismissal of the appeal as untimely or unperfected.
- G. Determination of jurisdictional defects in an appeal shall be made by the body to whom an appeal has been made.

**SECTION 9.23 NOTICE OF APPEAL.** Every notice of appeal shall contain:

- A. The specific grounds relied upon for appeal.
- B. If a hearing was held below, a transcription of the proceedings.
- C. Failure to submit a transcript shall render a notice of appeal incomplete and thus untimely. An appellant may cure an incomplete notice of appeal by submitting the transcript within ten (10) days of the date that the notice of appeal was filed.

**SECTION 9.24 HEARING ON APPEAL.**

- A. All parties shall be mailed notice of the hearing on appeal within ten (10) days of the hearing.
- B. The review on appeal shall be de novo, and shall be heard as provided in Section 9.10 through 9.19 of this Ordinance, except that redundant evidence shall not be allowed.
- C. The record of the proceeding from which appeal is taken, shall be a part of the record on appeal.

**SECTION 9.25 RE-HEARING.** Re-hearings shall not be allowed.

**SECTION 9.26 DURATION OF PERMIT.** All Land Use Permits shall be valid for a period of one (1) year from the date of approval, unless a shorter or longer duration is granted or required as part of the approval. The date of the approval is the date the final written decision is mailed to the parties.

**SECTION 9.27 EXTENSION.**

- A. Any Land Use Permit may be extended, prior to expiration, by the Community Development Director for periods of six (6) months up to not more than two (2) years. Such extensions shall be administrative, without notice, and in writing.
- B. No permit may be extended unless significant progress occurred during the duration of the permit or extension, or circumstances occurred, which were out of the applicant's control. If the permit is conditional, significant progress means, that some action must have commenced or occurred.

**SECTION 9.28 AUTHORIZATION OF SIMILAR USES.** The Planning Commission may permit, after holding a public hearing in accordance with Article 6, in a particular zone, a use not listed in this Ordinance, provided the use is of the same general type as the uses permitted in that zoning district. However, this section does not authorize placement of a proposed use in a zone where the use is not listed, when that use is specifically listed in another zone, or when the proposed use is of the same general type as a use listed in another zone.

**SECTION 9.29 PROPOSED AMENDMENTS.** The City Council shall hold a public hearing on all changes to the Comprehensive Plan, Zoning Ordinance text and the Comprehensive Plan/Zoning Ordinance map. All proposed amendments shall be processed in accordance with the public hearing procedures under Section 9.7 of this Ordinance. Text and map amendments shall also be submitted to the Department of Land Conservation and Development forty-five (45) days prior to the date set for final action except as provided for under ORS 197.610.

**SECTION 9.30 FINAL ACTION.** Except as provided for under ORS 227.178, the Planning Commission shall take final action on Conditional Use Permits and Variances, including the resolution of all appeals to the City Council under ORS 227.180, within one-hundred twenty (120) days from the date a complete application is submitted to the City. Within thirty (30) days of receipt of an application, the City shall review the application to determine whether it is complete. The applicant shall be notified of any missing materials within the thirty (30) day period. The one-hundred twenty (120) day time period shall commence on the date the application is deemed complete.

ARTICLE 10: GENERAL PROVISIONS

**SECTION 10.1 SEVERABILITY.** The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of the Ordinance.

**SECTION 10.2 ENFORCEMENT.**

- A. Administration. It shall be the duty of the Community Development Director to enforce the provisions of the Zoning Ordinance.
  
- B. Building Permits. No permit shall be issued by the Jefferson County Building Official for any development that does not conform to the requirements of the Zoning Ordinance or to any property that is currently in violation of the Zoning Ordinance.
  
- C. Authority. Whenever necessary to enforce the provisions of this Ordinance, the Community Development Director shall have recourse to every remedy provided by law.
  
- D. Violation of this Ordinance as a nuisance. The construction, erection, location, enlargement or use or change in use of uses of any structure or property in violation of this Ordinance of those conditions and limitations approved pursuant to the provisions of this Ordinance shall be deemed a nuisance and may be enjoined, abated, or removed pursuant to the procedures set forth in the City's Nuisance Ordinance.
  
- E. Revocation for False Statement. The Planning Commission may revoke any permit granted pursuant to the provisions of this Ordinance, if it is determined that the permit was issued on account of false statements contained in the application form or false representations made at a public hearing.
  
- F. Revocation for Non-Conformance. The Planning Commission may revoke any permit granted pursuant to the provisions to this Ordinance for failure to comply with those conditions and limitations placed upon the exercise of the permit.
  
- G. Revocation Hearing. No permit shall be revoked without a public hearing held pursuant to the provisions of Article IX.

- H. Who May Request Revocation Hearing. A revocation hearing shall be held by the Planning Commission at the request of the Community Development Director or an interested person who has reasonable cause to believe that the provisions of this Ordinance have been violated.
- I. Penalties of Violation.
1. A violation of the provisions of this Ordinance is punishable upon conviction by:
    - a. A fine of not more than \$100 for each day of violation where the offense is a continuing offense, but such fine may not exceed \$1,000.
    - b. A fine of not more than \$500 where the offense is not a continuing offense.
  2. The remedies available under Section 10.2 are not exclusive of any other remedies available under any applicable federal, state, and/or local laws, regulations, and/or ordinances. It is within the discretion of City to seek cumulative remedies for a violation of the Zoning Ordinance.

**SECTION 10.3 CORRECTIONS.** This Ordinance may be corrected upon initiation by the order of the City Council, Planning Commission, or Community Development Director to cure editorial and clerical errors.

**SECTION 10.4 SUPREMECY CLAUSE.** All provisions in prior ordinances in conflict with this Ordinance are hereby superseded as of the effective date of this Ordinance.

**SECTION 10.5 REPEALING CLAUSE.**

Ordinance No. 723 is hereby repealed. This repeal does not affect or invalidate any proceeding, action, or assessment taken by the Council under Ordinance No. 723.

**SECTION 10.6 EMERGENCY CLAUSE.** The City Council, having reviewed the City's existing land use regulations and the Comprehensive Plan, hereby determines that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Madras, and an emergency is hereby declared to exist. This Ordinance shall become in full force and effect from and after the date it is enacted and signed by the Mayor.

**PASSED** by the Council and signed by the Mayor on January 13, 2015.