

**TITLE 15
ZONING ORDINANCE**

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**CHAPTER 15.01
INTRODUCTORY PROVISIONS**

Section:

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

15.01.020 – Purposes

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

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

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

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

15.01.030 – Applicability and Compliance Required.

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

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

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

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

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

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

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

15.01.060 – Definitions.

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

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

1. “Access” means the legal right of ingress or egress by which pedestrians and vehicles enter and leave property. Demonstration of an access right requires documentation in the form of a recorded instrument or legal conveyance of access from the property owner.
2. “Accessory use” or “accessory structure” means a use or structure incidental and subordinate to the primary use of a property and which is located on the same lot as the primary use or is on a contiguous lot under the same ownership.
3. “Accessory dwelling unit” means one dwelling unit not exceeding 640 sf in floor area, that includes a kitchen, not more than one bedroom and one bathroom, on a lot with an existing single family dwelling or within a larger building put to some commercial use.
4. “Alley” means a street which affords only a secondary means of access to the property
5. “Applicant” means any person or party who submits an application for a quasi-judicial permit or determination under this ordinance or the City’s Land Division Ordinance.
6. “Application” means any request for a quasi-judicial decision under this ordinance or the City’s Land Division Ordinance.
7. “Approval Criteria” and “Approval standards” mean the substantive requirements set forth in this ordinance, the Comprehensive Plan, the Land Division Ordinance and any applicable provision of State law that must be met in order for a permit to be approved.
8. “Automobile wrecking yard” means the commercial storage or sale of used automobile or truck parts or for the storage, dismantling or abandonment of junk,

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

9. “Bed and Breakfast” means an establishment in a residential zone that contains up to 5 guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to 15 days. Bed and Breakfasts require a conditional use permit as allowed by Chapter 15.05, and compliance with the applicable standards in Section 15.03.080
10. “Building” means a structure or manufactured home built for the support, shelter, or enclosure of people, animals or property of any kind.
11. “Building official” means the State of Oregon Building Official, or that person’s duly authorized representative, who is responsible for the administration and enforcement of the State structural specialty codes, including the building code, in Mosier.
12. “Carport” means a stationary, roofed structure or a portion of a building open on two or more sides primarily used for the parking of motor vehicles.
13. “Church” means a building used primarily for religious worship.
14. “Change of use” means any use that substantially differs – either qualitatively or quantitatively – from the current use of a structure or property. Factors to consider when identifying a change of use include the effects on parking, drainage, circulation, landscaping, building arrangements, and nuisance factors including, but not limited to, traffic, lighting and noise, the number or type of items sold or services provided.
15. “Child care center” means a facility that provides care and supervision of minor children for periods of less than 24 hours and which complies with all applicable State licensing requirements.
16. “City” means the City of Mosier.
17. “City Council” means the Mosier City Council.
18. “City Planner” means the person designated by the City Council to interpret, apply and enforce provisions of this ordinance and the City’s Subdivision Ordinance, including the review of permit applications and the issuance of permits.
19. “Commercial use” means any activity involving buying and selling of goods and services.

20. "Condominium unit" means one of a group of housing units where each homeowner owns their individual unit space, and all dwellings typically share ownership of areas of common use. Individual units normally share walls, but that isn't a requirement. The main difference in condos and regular single homes is that there is no individual ownership of a plot of land. All the land in the condominium project is owned in common by all the homeowners and managed by a homeowners' or tenants' association. The maintenance responsibility for common land and amenities managed by an association is established in the declaration or bylaws and supported by dues paid by owners of individual units. Each owner pays taxes on their individual ownership and is free to sell it at will. The exterior walls and roof of units are typically insured by the condominium association, while all interior walls and items are typically insured by the individual owner. "Condominium" ownership is created and governed in Oregon by statute (ORS 100.005 to 100.910 and 100.990), known as the "Oregon Condominium Act."
21. "Drive through facilities" are commercial facilities designed to serve customers who remain in their vehicles, such as those associated with fast food restaurants, banks and coffee stands.
22. "Driveway apron" means a paved or concrete connection from the public street to the property line and/or driveway of a dwelling unit.
23. "Duplex" means a building containing 2 dwelling units, in a single ownership, where each unit is designed for occupancy by a single household.
24. "Dwelling, single family" means any building designed or used exclusively for occupancy by one household and containing one dwelling unit. The term includes manufactured homes meeting the requirements of Section 15.03.070 Manufactured Home Siting Standards.
25. "Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one household or a group residence. A manufactured home that complies with the requirements of this ordinance is a dwelling unit, but a recreational vehicle is not, nor can it be used as, a dwelling unit.
26. "Emergency" means a sudden unforeseen event requiring immediate action and usually involving danger or threat to life, public health, or property.
27. "Family day care" means a facility that provides care for not more than 12 children in a home and which complies with all applicable State licensing requirements.
28. "Final Action" and "Final Decision" mean the City's final decision on a permit application for which there is either no appeal to another decision maker within

- the City, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with Chapter 15.07 *Administration and Procedures*. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision. All applicable appeal periods begin to run on the date a decision becomes final.
29. “Formula take-out food restaurant” means a restaurant or establishment that (1) is required by contractual or other arrangement to offer standardized menus, ingredients, food preparation, interior or exterior design and/or uniforms and (2) serves or delivers its food in disposable containers.
 30. “Fourplex” means a building containing 4 dwelling units, in a single ownership, where each unit is designed for occupancy by a single household.
 31. “Frontage street or road” means a minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.
 32. “Grade” means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building.
 33. “Group residence” or “group home” means a residence for a group of more than 5 persons who are not related by blood, marriage, legal adoption or legal guardianship, living together in the same residential structure where there is a communal kitchen and dining facility.
 34. “Height of building” means the vertical distance above the base point measured to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the mid-point (half way between the eave and the peak) of a pitched or hipped roof. The base point shall be the height of the original (pre-development) grade of the property measured 5 feet out from the midpoint along the foundation wall. When measuring building height on a sloping lot, the base point shall be the average grade measured 5 feet out from the midpoint of all four walls.
 35. “Home occupation” means a lawful commercial occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, or lawfully constructed accessory building and which is secondary to the primary residential use of the dwelling. Home occupations require a conditional use permit as allowed by Chapter 15.05, and compliance with the applicable standards in Section 15.03.120 *Home Occupations*.
 36. “Household” means one or more people related by blood, marriage, adoption or legal guardianship, plus up to 3 additional unrelated people, all of whom live in one dwelling unit.

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

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

49. “Manufactured home park” means any place where 4 or more manufactured dwellings (as defined in ORS 446.003(26)) are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured dwelling park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the City of Mosier under an ordinance adopted pursuant to ORS 92.010 to 92.190.
50. “Material deviation” means any of the following changes to a previously approved permit:
 - a. For subdivisions or approved binding site plan, an increase in the total number of dwelling units or lots by 10% or more, an increase in the number of multiple family dwellings by more than 10%, or a reduction in the amount of landscaping, open space or land reserved for protected feature of 10% or more.
 - b. For conditional use permits, site plan reviews, or other approval involving a request to change the amount of commercial or industrial area by more than 10%.
 - c. For any permit approval, a reduction in the amount of landscaping, open space or land reserved for some protected feature of 10% or more or the relocation of buildings, streets, access points onto the existing public right of way, utility easements, pedestrian/bicycle accessways, parking lots, landscaping, or other site improvements away from the previously approved general location.
 - d. Any change to a non-quantified condition or requirement or one which renders the prior approved permit incompatible with surrounding lands or development or noncompliant with any of condition of approval or approval criterion.
51. “Motel” is the same as a “hotel” and “boarding house” and means any building that rents rooms for temporary residence by the day, night, week or month, excluding bed and breakfast establishments as defined above.
52. “Multifamily residential” means any type of residential structure with more than one dwelling unit in the same building or attached by a shared wall or walls.

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

53. "Nonconforming use," structure or lot means a use, structure or lot that was lawfully established, existing and active at the time this ordinance or any amendment thereto became effective, has been actively maintained to the same extent without any gaps or lapses greater than one year (12 continuous months) since the time restrictive zoning was first imposed, and which does not conform to one or more of the current requirements of this ordinance. A nonconforming use has a qualitative component, *i.e.*, the nature or type of use, and a quantitative component, *i.e.*, what is the measurable extent of the use. A nonconforming use can decrease in extent over time, but it cannot lawfully increase in extent over time.
54. "Occupation" means any endeavor for profit.
55. "Outdoor storage" means the keeping of personal or business property or motor vehicles outside of a building for more than 72 consecutive hours.
56. "Owner" means a person owning a legally recognized interest in real property.
57. "Parcel" means a tract of land that is created by partitioning of land.
58. "Parking space" means a rectangle not less than 18 feet long and 9 feet wide for use by a vehicle.
59. "Permit" means a quasi-judicial discretionary approval of the development of land that applies or interprets any provision of this ordinance, the Mosier Comprehensive Plan or the Land Division Ordinance, including, conditional use permits, subdivisions, partitions, planned unit developments, formal code interpretations, variances, similar use determinations, nonconforming use verifications, and any modification thereto.
60. "Person" means a natural person, firm, partnership, estate, receiver, syndicate, branch of government or any group or combination acting as a unit.
61. "Private driveway" means any form of access to a lot that is not dedicated to, and available for use by, the general public.
62. "Professional office" means a use involving professional services such as medical care, consulting, legal services, and other similar services.

63. "Projections" that are allowed to extent into required setbacks and above the maximum building height include architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues antennas and the like as determined by the city planner.
64. "Public facility or use" means a facility or use owned or used by a governmental entity and used for public service, police, fire protection, sewage collection and treatment, storm drainage systems, water distribution and treatment, public health services, public recreational programs and facilities, and library services. Surface mines owned or operated by a governmental entity or any use accessory thereto are not public facilities or uses.
65. "Public right of way" means a strip of land dedicated to the general public and open for ingress, egress and the placement of utilities.
66. "Quasi-judicial" means a proceeding initiated by an application in which existing standards or criteria are applied to a specific set of facts in order to determine whether the applicable criteria are met. The result of a quasi-judicial decision affects only one or a small number of identifiable properties or people and is not generally applicable.
67. "Recreational vehicle" means a trailer, camper, motor home or similar vehicle, with or without its own engine, which is designed for temporary occupancy and has a gross floor space of less than 400 sf. A recreational vehicle cannot be used as a dwelling unit or a manufactured home, as defined in this Chapter.
68. "Recreational vehicle park" means any area designed to provide temporary parking for, and use of, recreational vehicles and which meets all applicable state licensing and permitting requirements. The maximum stay shall be limited to 120 consecutive days.
69. "Residential care facility" means a residential care, residential training, or residential treatment facility licensed or registered by the State (Mental Health and Development Services Division) as defined in ORS 443.400, which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for 6 to 15 individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the residential facility. A residential facility does not include a residential school; state or local correctional facility; juvenile training school; youth care center operated by a county juvenile department; juvenile detention facility; nursing home; family care facility; or children's or adult day care as defined by State law.
70. "Residential home" means a residential treatment or training or adult foster home licensed by or under the authority of the State (Mental Health and Development

- Services Division), which provides residential care alone or in conjunction with treatment or training, or a combination thereof, of 5 or fewer individuals who need not be related. Staff required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any residents of the residential home.
71. “Residential use” means the use of a structure for occupancy as a human dwelling or lodging place, such as a single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.
 72. “Setback” means an area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained. Setbacks are measured from the rear, side and front property lines to the nearest part of a structure.
 73. “Sign” means an outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, or other thing that is used, designed or intended to communicate to persons or the public. The term includes the sign supporting structure, display surface and all other component parts of the sign. When dimensions of the sign are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but the term shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.
 74. “Street” means the entire width of a public right-of-way.
 75. “Structure” means a man made building constructed or built having a fixed base on or fixed connection to the ground or other structure. Surface coverings such as pavement and concrete are not structures.
 76. “Subject property” means one or more parcels of real property that are the subject of a quasi-judicial permit application.
 77. “Temporary event” means a one-time event or limited frequency event or use that will not last for more than one week or consist of more than five (5) event days per calendar year and then will end. Temporary events do not involve construction or alteration of any permanent building or structure nor connection with any public facilities, but all impacts of the use, such as traffic pedestrian circulation, trash collection and the like, must be avoided, minimized or mitigated for. Temporary events are only allowed in the Commercial, Industrial and Public Lands zone. Any signs associated with a temporary event are subject to the sign code regulations in Chapter 8.20 of MMC. Approval of a temporary event permit is not a land use permit and is not subject the land use decision-making procedures detailed in Chapter 15.07 Administration and Procedures.

- “Temporary use” means a use established for a limited duration, not to exceed one year, that is, or will be, discontinued after one year. Temporary use does not involve construction or alteration of any permanent building or structure, although the authorization of the temporary use does not necessarily preclude such construction.
78. “Townhouse” means two or more single family dwellings that are attached (common wall) with no lot or space separating them and where the legal property line separating the lots runs through the building dividing the ownership of the land into separate lots. Individual townhouse units can be separately owned and sold.
79. “Tract” means a separately described parcel of land that cannot be used for the construction of a dwelling or any other structure, but instead is used for open space, stormwater detention or some other similar purpose.
80. “Triplex” means a building containing 3 dwelling units, owned by a single owner, where each unit is designed for occupancy by a single household.