

CITY of BOARDMAN

Community Development

STAFF REPORT

DATE: April 15, 2015

TO: Boardman Planning Commission and Interested Parties

FROM: Barry C. Beyeler, Community Development Director

SUBJECT: Post Acknowledgement Plan Amendment 1-2015

BACKGROUND:

On March 19, 2014, Senate Bill 1531 was signed into law, giving local jurisdictions the ability to adopt regulations governing the operations of medical marijuana facilities. The city has no local regulations governing the sale of medical marijuana, leaving the city and the public with no clear guidance should such a business be proposed. Amendments to the Boardman Development Code (BDC) would be required to address to provide governance language on this type of facility.

On April 15, 2014, in response to the passage of Senate Bill 1531, the Boardman City Council passed City of Boardman Ordinance No. 1-2014 (attached as Appendix "1"), setting a moratorium on medical marijuana facilities, which was allowed by Senate Bill 1531. This moratorium is effective until May 1, 2015. After the passage of Ordinance 1-2014, staff has been working through strategies, meetings with Morrow County officials and officials in other cities of the county to work through the legal framework and find language which would provide the governance of a medical marijuana facility.

Throughout this process, review of local regulations, and discussions at City Council meetings happened during the lead up time to passage of Ballot Measure 91 in November of 2014. It was determined additional review was necessary to determine whether medical and recreational marijuana facilities could, or should, be regulated the same. With the sunset date, of May 1, 2015, contained in Ordinance No. 1-2014, the medical marijuana facilities regulations needed to be put in place by the May 1, 2015, date. Additionally, with recreational marijuana being regulated by a different state agency than medical marijuana, the decision was to write recreational marijuana regulations separately.

It was determined three separate chapters of the BDC would need language changes to accomplish the governance for medical marijuana facilities. On March 17, 2015, the City sent notice to the Department of Land Conservation and Development (DLCD) informing them of the first hearing schedule on Post Acknowledgment Plan Amendment (PAPA) 1-2015. This schedule is a first hearing before the Boardman Planning Commission on April 22, 2015, and the second hearing, before the Boardman City Council on April 28, 2015 (attached as Appendix "2").

LANGUAGE CHANGE SPECIFICS:

Chapter 1.2 – Definitions

Five new definitions were inserted into Chapter 1.2 – Definitions. These five definitions are for “Drug Store”, “Liquor Store”, “Medical Marijuana Dispensary Facility”, “Medical Marijuana Grow Facility”, and “Pharmacy”. These definitions were added to both define and differentiate drug stores, pharmacies and liquor stores from medical marijuana facilities. The language changes are included in the attached Exhibit “A”.

Chapter 2.2 – Commercial District

Two Commercial Sub-Districts, Tourist Commercial and Service Center, have had medical marijuana facilities included as a conditional use inserted in to Table 2.2.180.A for Tourist Commercial Sub-District, and Table 2.2.200.B for the Service Center Sub-District. These two sub-districts were determined to be the only locations which would not be within Minor Children Safety Areas, as established by the Boardman City Council in Chapter 9.04 of the Boardman Municipal Code. The language changes are included in the attached Exhibit “B”.

Chapter 4.4 – Conditional Use Permits

New language setting conditions of approval for Medical Marijuana Dispensaries and Medical Marijuana Grow Facilities were added as §4.4.400(E). The language changes are included in the attached Exhibit “C”.

FINDINGS:

- 1) On April 15, 2014, the Boardman City Council passed Ordinance NO. 1-2014, in response to Oregon Senate Bill 1531 creating a moratorium on the establishment of a medical marijuana dispensary or grow facility until the date of May 1, 2015.
- 2) The City of Boardman worked with Morrow County and all other cities within the county to devise strategies and possible consistencies which might be attained throughout Morrow County.
- 3) On November 4, 2014, the Boardman City Council held a public hearing to inform the public on the proposed implementation of a marijuana tax. The proposed Ordinance, outlining the implementation of the tax language, died for a lack of second after Council deliberation.
- 4) On March 17, 2015, the Boardman City Council directed the city manager and staff to establish language in Chapter 9.04 of the Boardman Municipal Code for purpose of creating Minor Children Safety Areas throughout the city.
- 5) On March 18, 2015, the city provided “Notice of Proposed Change to a Comprehensive Plan or Land Use Regulation (DLCD Form 1) to the Department of Land Conservation and Development (Attached as Appendix 2).

- 6) On March 31, 2015, the city posted and published Public Notice of the first evidentiary hearing on this matter by the Boardman Planning Commission (Affidavit of publication attached as Appendix 3).
- 7) On April 7, 2015, the city posted and published Public Notice of the second evidentiary hearing on this matter by the Boardman City Council (Affidavit of publication attached as Appendix 4).
- 8) On April 7, 2015, the Boardman City Council approved Ordinance No. 3-2015, an Ordinance Changing the language of Boardman Municipal Code Chapter 9.04 by first reading. The effective date of Ordinance No. 3-2015 is April 21, 2015, (Attached as Appendix 5).
- 9) As of the posting of this Staff Report on April 15, 2015, no comments from the public, or agencies, have been received on this Post Acknowledgement Plan Amendment.

SUMMARY AND CONCLUSIONS:

Post Acknowledgement Plan Amendment 1-2015 provides required language for governance of medical marijuana dispensaries and medical marijuana grow facilities in two commercial sub-districts, Tourist Commercial and Service Center. Medical marijuana facilities are allowed under the language changes to Chapter 1.2-Definitions, Chapter 2.2-Commercial District and Chapter 4.4-Conditional Use Permits. These language changes address the conditions for siting of medical marijuana facilities while being consistent with the Boardman City Council decision to establish Minor Children Safety Areas as found in Boardman Municipal Code Chapter 9.04.

Research, developing an appropriate legal strategy and subsequent legal review have taken time to complete; however, the staff believes the proposed language changes deliver a product which can meet the necessary legal parameters and the intent of the Boardman City Council's decision to establish Minor Children Safety Areas.

Staff recommendation is for Planning Commission Approval and to forward a recommendation to the Boardman City Council for approval.

EXHIBIT "A"

Chapter 1.2 — Definitions

Abutting - Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

Access – A way or means of approach to provide pedestrian, bicycle or motor vehicular entrances or exits to a property.

Access easement - An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.

Access management - The control of street (or highway) access for the purpose of improving the efficiency, safety and/or operation of the roadway for vehicles; may include prohibiting, closing, or limiting direct vehicle access to a roadway from abutting properties, either with physical barriers (curbs, medians, etc.) or by land dedication or easement. See also, Chapter 3.1, Section 200.

Access point – Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

Accessible - Approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.

Accessory dwelling – An accessory dwelling is a small, secondary housing unit on a single family lot, usually the size of a studio apartment. See Chapter 2.1, Section 200.B.

Accessory use/Accessory structure – Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses and similar structures. See Chapter 2.1, Section 200.J.

Adjacent - Abutting or located directly across a street right-of-way.

Administrative - A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal. See also Chapter 4.1, Section 400.

Adverse impact - Negative effect of development that can be measured (e.g., noise, air pollution, vibration, dust, etc.).

Affordable - Means housing affordable to a certain percentage of the population earning a specified level of income and spending no more than 30 percent of their income on housing expenses. For more information, refer to the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

Agriculture - As used in this Code, “agriculture” is the same as “farm use”. [See also, ORS 215.203(2)(a).]

Alley – A narrow street (16’-20’ right-of-way), usually a thoroughfare through the middle of the block giving access to the rear of lots or buildings. See Chapter 3.4, Section 100.F

Ambient - Something that surrounds, as in the level of light, dust or noise.

Arterial - An arterial street. Arterials form the primary roadway network within a region, providing a continuous road system that distributes traffic between cities, neighborhoods, and districts. Generally, arterials are high-capacity City roadways. See Chapter 3, Access and Circulation.

Articulate/articulation - The jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

Automobile-dependent use – The use serves motor vehicles and would not exist without them such as vehicle repair, gas station, car wash, auto and truck sales. See Chapter 2.2, Section 180.E.

Automobile-oriented use – Automobiles and/or other motor vehicles are an integral part of the use such as drive-in restaurants and banks. See Chapter 2.2, Section 180.E.

Bed and breakfast inn - Provides accommodations (3 or more rooms) plus breakfast on a daily or weekly basis in an operator- or owner-occupied home that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This use includes inns that operate restaurants offering meals to the general public as well as to overnight guests.

Berm - A small rise or hill in a landscape which is intended to buffer or visually screen certain developments, such as parking areas.

Beveled building corner - A rounded or flat edge on a building, usually at a street corner; may include an entrance, windows, pillars, or other architectural details and ornamentation.

Block - A parcel of land or group of lots bounded by intersecting streets. See also, Chapter 3.1, Section 200.J.

Bicycle - A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which a person or persons may ride with two tandem wheels at least 4 inches in diameter. An adult tricycle is considered a bicycle.

Bicycle Facilities – A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

Bikeway- Any road, path, or way that is some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of bikeways are:

- a. Multi-use Path. A paved way (typically 10 to 12-foot wide) that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.
- b. Bike Lane. A portion of the roadway (typically 4 to 6-foot wide) that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.
- c. Shoulder Bikeway. The paved shoulder of a roadway that is 4 feet or wider; typically shared with pedestrians in rural areas.
- d. Shared Roadway. A travel lane that is shared by bicyclists and motor vehicles.

- e. **Multi-use Trail** - An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

Bollard - A post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards are usually decorative, and may contain sidewalk or pathway lighting.

Boulevard - A street with broad open space areas, typically with planted medians. See Chapter 3.4, Section 100.F.

Building footprint - The outline of a building, as measured around its foundation.

Building mass - The aggregate size of a building, or the total height, width, and depth of all its parts.

Building pad - A vacant building site on a lot with other building sites.

Building scale - The dimensional relationship of a building and its component parts to other buildings.

Bulkhead - The wall below ground-floor windows on a building (may be differentiated from other walls by using different materials or detailing).

Canopy-line - Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

Capacity - Maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

Centerline radius - The radius of a centerline of a street right-of-way.

Child care center, family childcare - Facilities that provide care and supervision of minor children for periods of less than 24 hours. "Family child care providers" provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Clear and objective - Relates to decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

Collector - Type of street which serves traffic within the commercial, industrial and residential neighborhood areas. Collectors connect local neighborhoods or districts to the arterial network. Collectors are part of the street grid system. See Chapter 3.4, Section 100.F.

Commercial - Land use involving buying/selling of goods or services as the primary activity.

Comprehensive Plan - The Comprehensive Plan for the City of Boardman, comprising plans, maps, policies or reports, or any combination thereof relating to the future economic and physical growth and development pattern or redevelopment of the City.

Common area - Land commonly owned to include open space, landscaping or recreation facilities (e.g., typically owned by homeowners associations).

Conditional use - A use which requires a Conditional Use Permit. See Chapter 4.4.

Consensus - Agreement or consent among participants.

Corner clearance – The distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.

Conservation easement - An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees, floodplains, wildlife habitat, and similar resources.

Corner radius - The radius of a street corner, as measured around the curb or edge of pavement.

Cornice - The projecting horizontal element that tops a wall or flat roof. See Chapter 2.2, Section 160.

Cottage - A small house that may be used as an accessory dwelling, in conformance with Chapter 2.1, Section 200.B.

Courtyard - A court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.

Cross Access – A service drive providing vehicular access between two or more contiguous sites so that the driver need not enter the public street system.

Curb cut - A driveway opening where a curb is provided along a street.

Deciduous - Tree or shrub that sheds its leaves seasonally.

Dedication - The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners association.

Density (ies) - A measurement of the number of dwelling units in relationship to a specified amount of land. As used in this Code, density does not include land devoted to street right-of-way. Density is a measurement used generally for residential uses.

Developable - Buildable land, as identified by the City's Comprehensive Plan. Includes both vacant land and land likely to be redeveloped, per ORS 197.295(1).

Development - All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.

Discontinued/abandoned use - A use that physically vacates the land it was on, cessation of an allowed activity, or use terminated at the end of any lease or contract. See Chapter 5.2.

Discretionary - Describes a permit action or decision that involves substantial judgment or discretion.

Drive lane/travel lane - An improved (e.g., paved) driving surface for one lane of vehicles.

Driveway – An area that provides vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking lots and parking spaces.

Driveway apron/approach - The edge of a driveway where it abuts a public way; usually constructed of concrete. See Figure 3.1.200.K.

Drought-tolerant/drought-resistant plants - Refer to *Sunset Western Garden Book* (latest edition).

Drug Store - Refers to a store where the primary business is filling of doctor prescribed prescription and the sale of drugs, medical devices and supplies, and non-prescription medicines, but where non-medical products may be sold as well.

Duplex - A building with two attached housing units on one lot or parcel.

Dwelling unit - A “dwelling unit” is a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code (UBC), for not more than one family, or a congregate residence for 10 or fewer persons. (See UBC section 205.)

Easement - A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

Elevation - A building face, or scaled drawing of the same, from grade to roof ridgeline.

Environmentally sensitive areas - See “sensitive lands”.

Established residential area – An area within the Residential District that was platted prior to the effective date of a land use or zoning ordinance. See Chapter 2.1, Section 120.F

Evidence - Application materials, plans, data, testimony and other factual information used to demonstrate compliance or non-compliance with a code standard or criterion.

Family day care - See “child care facilities”.

Fire apparatus lane - As defined by the Uniform Fire Code.

Flag lot - A lot or parcel which has access to a road, street or easement, by means of a narrow strip of lot or easement. See Chapter 2.1, Section 140.

Floor area ratio – Floor area ratio (FAR) is measured by dividing the gross enclosed floor area of a building by the land area of the development. See Chapter 2.2, Section 130.

Frontage- The dimension of a property line abutting a public or private street.

Frontage street or road - A minor street that parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

Functional classification - The classification given to streets (e.g., “local/collector/arterial”) by the City’s Transportation System Plan (TSP), by adopted County plans, and the Oregon Department of Transportation.

Ground cover - A plant material or non-plant material (e.g., mulch, bark chips/dust) that is used to cover bare ground. See also, Chapter 3.2 - Landscaping.

Hammerhead turnaround - A “T” or “L” shaped area at the end of a dead-end street that allows for vehicles to turn around.

Hardscape - Non-plant landscape materials, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

Home occupation, home occupation site – A small commercial venture which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. See Chapter 4.9, Section 200.

Human-scale design/development - Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtown and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic.

Impervious surface - Development which does not allow for water infiltration into the ground (e.g., pavement, roofs, etc.).

Incidental and subordinate to - A use or portion of a development that is secondary to, and less apparent, than the primary use or other portion of the development.

Infill - A dwelling that is proposed on land that is zoned for residential use where at least 75% of the abutting parcels have a dwelling, but not counting any parcel that is too small for a residence and any parcel that is large enough that it can be divided into four or more lots. These standards also apply where a home is removed to make way for a new house, manufactured home duplex and attached house. These standards do not apply to a dwelling that is proposed on land that is large enough that it can be divided into four or more lots.

Kennel – Any premises or building in which four (4) or more dogs or cats at least four (4) months of age are kept for board, propagation or sale.

Land division - The process of dividing land to create parcels or lots.

Land use - The main activity that occurs on a piece of land, or the structure in which the activity occurs (e.g., residential, commercial, mixed use, industrial, open space, recreation, street rights-of-way, vacant, etc.).

Land use district - As used in this code, a land use district is the same as a zone district.

Landing - A level part of a staircase, as at the end of a flight of stairs.

Landscaping - Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains or the like. Landscaping also includes irrigation systems, mulches, topsoil, and re-vegetation or the preservation, protection and replacement of existing trees.

Lane, mid-block lane - A narrow, limited use roadway facility usually used to access a limited number of dwelling units. Similar to an alley in design. See Chapter 2.1, Section 140.A.

Legislative - A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). See Chapter 4.1, Section 600.

Level of service (LOS) - For transportation, a standard of a street's carrying capacity, based upon prevailing roadway, traffic and traffic control conditions during a given time period. The Level of Service range, from LOS A (free flow) to LOS F (forced flow) describes operational conditions within a traffic stream and their perception by motorists/passengers. Level of Service is normally measured for the peak traffic hour, at intersections (signalized or unsignalized) or street segments (between signalized intersections).

Light manufacture - Light manufacturing operations (e.g., electronic equipment, printing, bindery, furniture, and similar goods). See Chapter 2, Section 4.110.

Livestock - Domestic animal types customarily raised or kept on farms.

Liquor Store - A store which sells alcoholic beverages for consumption elsewhere and is licensed by the Oregon Liquor Control Commission. This may include dining or other establishments which also allow sales for off-premises consumption

Local Improvement District (LID) - A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc.). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485. See also Chapter 3.4 Section 100.

Local street - A street used primarily for access to abutting property(ies).

Lot - A lot is a unit of land that is created by a subdivision of land (ORS 92.010(3)). See also, Chapter 4.3.

Lot area - The total surface area (measured horizontally) within the lot lines of a lot.

Lot, corner - Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred and thirty five (135) degrees.

Lot coverage - The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

Lot depth - The average distance measured from the front lot line to the rear lot line.

Lot line adjustment - The adjustment of a property line by the relocation of a common line where no additional lots are created. This development code also defines the consolidation of lots (i.e., resulting in fewer lots) as a lot line adjustment.

Main/Primary entry/entrance - A main entrance is the entrance, or entrances, to a building that most pedestrians are expected to use. Generally, smaller buildings have one main entrance. The main entrance may also be the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation

space, each tenant's outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales area, a courtyard, or plaza.

Maneuvering area/aisle - The driving area in a parking lot where motor vehicles are able to turn around and access parking spaces.

Manufactured dwelling. A manufactured dwelling is one of the following residences: a residential trailer; a mobile home or a manufactured home.

Manufactured dwelling park - Four or more units located on one lot allowing manufactured dwellings.

Manufactured Home - A manufactured home is a transportable single family dwelling constructed after 1976.

Manufactured Structure - A manufactured structure includes the following residence types: a recreational vehicle, residential trailer constructed prior to 1962, a mobile home constructed between 1962 and 1976, or a manufactured home constructed after 1976. For the purposes of this Code, Manufactured Structure also includes structures built and installed as temporary classrooms or to other non-residential uses.

Medical Marijuana Dispensary or Facility - A facility which dispenses medical marijuana, meeting the requirements set by the Oregon Health Authority and being registered to do business with the Office of the Secretary of State.

Medical Marijuana Grow Facility - A facility which grows medical marijuana as allowed under Oregon Revised Statute and as regulated by the Oregon Health Authority.

Ministerial - A routine governmental action or decision that involves little or no discretion. The issuance of a building permit is such an action. See also, Chapter 4.1 Section 400.

Mitigation - To avoid, rectify, repair, or compensate for negative impacts which result from other actions (e.g., improvements to a street may be required to mitigate for transportation impacts resulting from development.”)

Mixed-use building/development/horizontal/vertical - See Chapter 2.2, Section 180.A.

Mobile Home - A Mobile Home is a portable residence constructed between 1962 and 1976.

Mobile Home Park - Four or more units located on one lot allowing recreational vehicles, residential trailers, mobile homes, manufactured homes, or recreational structures.

Multi-family housing - Housing that provides more than three dwellings on an individual lot (e.g., multi-plexes, apartments, condominiums, etc.). See Chapter 2.1, Section 200F.

Multi-use pathway - Pathways for pedestrian and bicycle use. See Chapter 3.1, Section 300.A.4.

Natural resource areas/natural resources - Same as Sensitive Lands, per Chapter 3.7.

Natural hazard - Natural areas that can cause dangerous or difficult development situations, such as steep slopes, unstable soils, landslides, flood areas.

Neighborhood - A geographic area lived in by neighbors and usually having distinguishing character.

Neighborhood-scale design - Site and building design elements that are dimensionally related to housing and pedestrians, such as narrower streets with tree canopies, smaller parking areas, lower building heights (as compared to downtown areas) and similar neighborhood characteristics. These features are generally smaller in scale than those, which are primarily intended to accommodate automobile traffic.

Neighborhood commercial – Small scale commercial uses allowed within the residential/neighborhood commercial district. See Chapter 2.1, Section 200.K.

Non-conforming use/non-conforming development – A land use/structure that exists which would not be permitted by the regulations imposed by the code, but was lawful at the time it was established. See Chapter 5.2.

Non-native invasive plants - See current Oregon State University Extension Service Bulletin for your area.

Off-street parking - All off-street areas designed, used, required or intended to be used for the parking of motor vehicles. Off-street parking areas shall conform to the requirements of Chapter 3.3.

On-street parking - Parking in the street right-of-way, typically in parking lanes or bays. Parking may be “parallel” or “angled” in relation to the edge of the right-of-way or curb. See also, Chapter 3.3.

Open space (common/private/active/passive) - Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreation, conservation or other open space uses.

Orientation - To cause to face toward a particular point of reference (e.g., “A building oriented to the street”).

Outdoor commercial use - A use supporting a commercial activity which provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses.

Overlay zone/district - Overlay zones provide regulations that address specific subjects that may be applicable in more than one land use district. See also Chapter 2.6.

Parcel - A unit of land that is created by a partitioning of land (ORS 92.010(6)). See also, Chapter 4.3.

Parking lot perimeter - The boundary of a parking lot area which usually contains a landscaped buffer area.

Parking vs. storage - Parking is the area used for leaving motor vehicles for a temporary time up to 72 hours unless permitted as parking for longer by other municipal codes. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use.

Partition - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See also, ORS 92.010(8)).

Pathway/walkway/access way - See Chapter 3.1, Section 3.A. As defined in this code, a pathway or multi-use pathway may be used to satisfy the requirements for “accessways” in the Transportation Planning Rule. (OAR 660-012-045.)

Pedestrian amenity(ies) –Pedestrian areas and objects that serve as places for socializing and enjoyment of the City’s downtown/main street. Examples include benches or public art or sculpture. See Chapter 2.2, Section 170.

Pedestrian facilities - A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths and trails.

Pharmacy – A place where drugs and medicines are prepared and dispensed by a licensed pharmacist. A pharmacy may also be a drug store.

Pier - Exterior vertical building elements that frame each side of a building or its ground-floor windows (usually decorative).

Planter strip or tree cut-out - An area for street trees and other plantings within the public right-of-way, usually between the street and a sidewalk.

Plat - A map of a subdivision, prepared as specified in ORS 92.080, and recorded with the Morrow County Assessor’s Office. All plats shall also conform to Chapter 4.3 - Land Divisions.

Plaza - A public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activity. See Chapter 2.2, Section 170.

Pocket park - A small park, usually less than one-half acre.

Primary - The largest or most substantial element on the property, as in “primary” use, residence, entrance, etc. All other similar elements are secondary in size or importance.

Property line: front, rear, interior side, street side - Legal borders of a lot or parcel of land See Figure 2.1.130.

Public facilities – Public and private transportation facilities and utilities. See Chapter 3.4.

Public improvements - Development of public facilities. See Chapter 3.4.

Quasi-judicial - Refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to an application for development of a specific site, and usually involves a public hearing. See Chapter 4.1, Section 500.

Recreational Vehicle – A vacation trailer or other vehicular or portable unit (boat, all-terrain vehicle (“ATV”), non-commercial watercraft) which is either self-propelled or towed or is carried by a motor vehicle, which is intended for human occupancy, and which is designated primarily for vacation or recreation purposes or temporary residential use.

Residence - Same as “dwelling”.

Residential caretaker unit - A dwelling unit for caretakers living on-site in the General Industrial District. The unit must be served by water and sanitary sewage and conform with other applicable building standards. See Chapter 2.3, Section 160.B.

Residential care home/Residential care facility –Residential treatment or training homes or adult foster homes licensed by the State of Oregon. See Chapter 2.1, Section 200.G.

Residential trailer – A portable residence constructed prior to 1962.

Ridge line (building) - The top of a roof at its highest elevation.

Right-of-way - Land that is owned in fee simple by the public, usually for transportation facilities.

Roof pitch - The slope of a roof, usually described as a ratio (e.g., 1 foot of rise per 2 feet of horizontal distance, or 1/2).

Roof-top garden - A garden on a building terrace, or at top of a building with a flat roof (usually on a portion of a roof).

Senior housing - Housing designated and/or managed for persons over the age of 55. (Specific age restrictions vary.)

Sensitive lands - Wetlands, significant trees, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the Comprehensive Plan.

Setback - The distance between a building (or other feature of development) and a property line. Minimum and maximum setbacks may be required for front, side and rear yards.

Shared driveway - When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) may be created for this purpose.

Shared parking –Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (daytime versus nighttime primary uses). See Chapter 3.3, Section 300.C.4.

Single-family attached housing (townhomes) - Two or more single family dwellings with common end-walls. See also, Chapter 2.1, Section 110 and Section 200.

Single-family detached house - A single family dwelling that does not share a wall with any other building. See also Chapter 2.1, Section 110.

Single-family detached zero-lot line house - A single family detached house with one side yard setback equal to “0”. See also, Chapter 2.1, Section 110 and Section 200.

Site - A property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this Code.

Site design review – A discretionary review that applies to all developments in the City, except those specifically listed under Development Review. Site Design review ensures compliance with the basic development standards of the land use district, as well as more detailed design standards and public improvement requirements in Chapters 2 and 3, Development Review - See Chapter 4.2.

Specific Area Plan – Describes in more detail the type of development planned for a specific area than is typically found in a comprehensive plan, zone map, or public facilities plan. See Chapter 2.5.

Standards and criteria - Standards are code requirements. Criteria are the elements required to comply with a particular standard.

Steep slopes - Slopes greater than 25 percent.

Storefront character - The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed street-front entries, and similar features.

Storm water facility - A detention and/or retention pond, swale, or other surface water feature that provides storage during high-rainfall events and/or water quality treatment.

Street/road - A public or private way for travel by vehicles, bicycles and pedestrians, that meets the City standards in Chapter 3.4, Section 100.

Street access — Safe and efficient passage for pedestrians and vehicles to circulate through a connected street system. See Chapter 3.1, Section 200.

Street connectivity - The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

Street furniture/furnishings - Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities located within a street right-of-way. See also, Chapter 2.2, Section 170.

Street stub - A temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

Street tree - A tree planted in a street right-of-way within a planter strip or tree cut-out.

Subdivision - To divide land into four or more lots within a single calendar year. (ORS 92.010(13).)

Surface water management - Definition to be developed in Chapter 3.5.

Swale - A type of storm water facility. Usually a broad, shallow depression with plants that filter and process contaminants.

Tangent - Meeting a curve or surface in a single point.

Terrace - A porch or promenade supported by columns, or a flat roof or other platform on a building.

Topographical constraint - Where existing slopes prevent conformance with a Code standard.

Tract: private/public - A piece of land set aside in a separate area for dedication to the public, a homeowner's association, or other entity (e.g., for open space, recreation facilities, sensitive lands, etc.).

Transportation facilities and improvements - The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc. Transportation improvements include the following:

- a. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
- b. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
- c. Projects specifically identified in the City's adopted Transportation System Plan as not requiring further land use review and approval.
- d. Landscaping as part of a transportation facility.
- e. Emergency measures necessary for the safety and protection of property.
- f. Construction of a street or road as part of an approved subdivision or partition.
- g. Construction, reconstruction, or widening of highways, roads or bridges, or other transportation projects that are not designated improvements in the Transportation System Plan.
- h. Construction, reconstruction, or widening of highways, roads or bridges, or other transportation projects that are not designed and constructed as part of an approved subdivision or partition.

Transportation Facilities and Improvements in subsections g. and h. require a Conditional Use Permit (CU) under Section 4.4.400D.

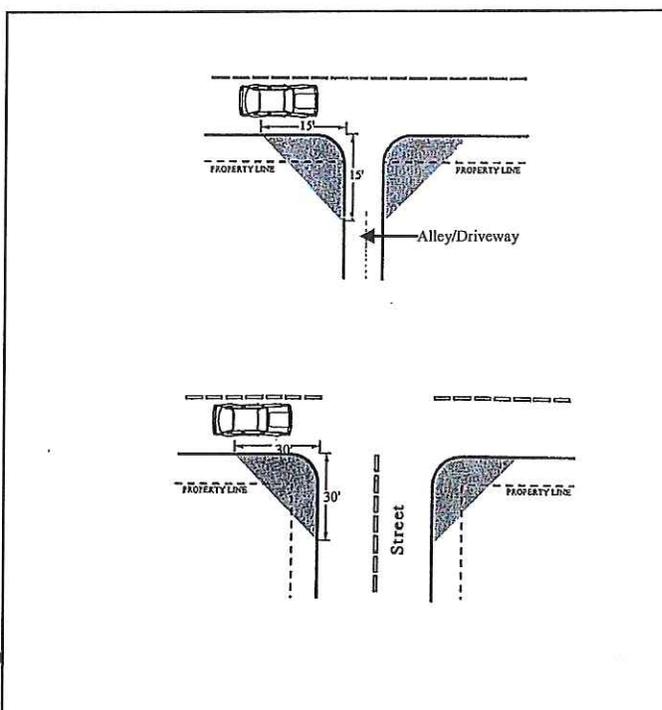
Transportation mode - The method of transportation (e.g., automobile, bus, walking, bicycling, etc.)

Triplex - A building with three attached housing units on one lot or parcel.

Vacate plat/street - To abandon a subdivision or street right-of-way. For example, *vacation* of a public right-of-way that is not needed or cannot be used for a street or other public purpose. A plat may be vacated, returning the property to an undivided condition.

Variance - An judicial decision modify the Code. See

Vision clearance as shown on the Vision Clearance regulated and section 3.1.200N standard applies alleyways and



administrative or quasi- to lessen or otherwise requirements of this Chapter 5.1.

area -The shaded area following figure is the Area. This area is further described in of the code. This to driveways, streets, railways.

Wetland - A land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities. It is defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-85-010). For more information, contact the Oregon Division of State Lands.

Window hood - An architectural detail placed above a window, used as an accent.

Wireless communication equipment - Includes cell towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.

Yard - The area defined by setbacks (i.e., between the setback line and respective property line).

Zero-lot line house - Single family home that is not subject to side yard setbacks on one side of a typical lot. See Chapter 2.1, Section 200.A.

EXHIBIT "B"

Chapter 2.2 – Commercial (C) District

Sections:

- 2.2.100 – Purpose
- 2.2.110 – Permitted Land Uses
- 2.2.120 – Building Setbacks
- 2.2.130 – Lot Coverage
- 2.2.140 – Building Height
- 2.2.150 – Design Standards
- 2.2.160 – Pedestrian Amenities
- 2.2.170 – Special Standards for Certain Uses
- 2.2.180 – Tourist Commercial Sub District
- 2.2.190 – City Center Sub District
- 2.2.200 – Service Center Sub District
- 2.2.210 – BPA Transmission Easement Sub District

2.2.100 Purpose

The primary purpose of the Commercial District is to create standards that allow for a variety of commercial uses in the Commercial areas of the City of Boardman. This Chapter also creates three Sub Districts---Tourist Commercial, City Center and Service Center. The Tourist Commercial Sub District provides additional standards for the areas of the City adjacent to Interstate 84. The Service Center Sub District provides standards for commercial and light industrial uses located west of the City. The City Center Sub District provides additional standards to create a concentrated and centralized commercial center to serve as the “heart” of the community. The City Center Sub District is created as an optional Sub District that may apply to certain geographic areas within the Commercial District. This geographic area has been designated to form the “center” of Boardman’s commercial activities. This chapter provides standards for the orderly creation and expansion of the Commercial District by adherence to the following principles:

- Effective and efficient use of land and urban services;
- Direct commercial and retail development to a concentrated and localized area;
- Provide a mix of uses which provides a destination within the community and encourages walking over driving;
- Create connection with the balance of the community by directing connected transportation routes to commercial areas of the city;
- Provide for additional service employment opportunities.

2.2.110 Permitted Land Uses

- A. **Permitted Uses.** The land uses listed in Table 2.2.110.A are permitted in the Commercial District, subject to the provisions contained within this Chapter. Only land uses specifically listed in Table 2.2.110.A and those approved as “similar” uses are permitted. Land uses identified with a “CU” in the table will require a Conditional Use Permit approval prior to development or change in use, in accordance with Chapter 4.4 of this code.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures set in Chapter 4.8 – Interpretations.

Table 2.2.110.A Land Uses and Building Types Permitted in the Commercial District		
<p>1. Residential* (CU)</p> <p><i>Single-family</i></p> <p>a. Single-family attached townhomes</p> <p>b. Two and Three family housing (duplex and triplex townhomes)</p> <p>c. Multi-family housing</p> <p>d. Residential care homes and facilities</p> <p>2. Home occupations (CU)</p> <p>3. Bed & breakfast inns (CU)</p>	<p>4. Public and Institutional *:</p> <p>a. Churches and other places of worship</p> <p>b. Clubs, lodges, similar uses</p> <p>c. Government offices and facilities (administration, public safety, utilities, and similar uses)</p> <p>d. Libraries, museums, community centers, concert halls and similar uses</p> <p>e. Public parking lots and garages</p> <p>f. Private utilities (office/administration)</p> <p>g. Public parks and recreational facilities</p> <p>h. Schools (public and private) (CU)</p> <p>i. Transportation Facilities and Improvements.</p> <p>1. Normal operation, maintenance;</p> <p>2. Installation of improvements within the existing right-of-way;</p> <p>3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval;</p> <p>4. Landscaping as part of a transportation facility;</p> <p>5. Emergency Measures;</p> <p>6. Street or road construction as part of an approved subdivision or partition;</p> <p>7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and</p> <p>8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU)</p>	<p>5. Accessory Uses and Structures*</p> <p>6. Commercial:</p> <p>a. Auto-dependent and auto-oriented uses and facilities (Prohibited in City Center Sub District)*</p> <p>b. Entertainment (e.g., theaters, clubs, amusement uses)</p> <p>c. Hotels/motels</p> <p>d. Hospitals, medical and dental offices, clinics and laboratories</p> <p>ee. Mixed use development (housing with other permitted use)*</p> <p>ff. Office uses (i.e., those not otherwise listed)</p> <p>gg. Family daycare (12 or fewer children)</p> <p>hh. Personal and professional services (e.g., child care center, catering/food services, restaurants, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, and similar uses)</p> <p>ii. Repair services (must be enclosed within building if located in City Center)</p> <p>jj. Retail trade and services, except auto-dependent and auto-oriented uses</p> <p>kk. Telecommunications equipment (including wireless) (CU) (Prohibited in City Center).</p> <p>ll. Uses similar to those listed above (subject to CU requirements, if applicable)</p> <p>7. Light Manufacture* (see 2.2.170 C)</p>

Uses marked with an asterisk (*) are subject to the standards in Section 2.2.170 - Special Standards for Certain Uses. Uses marked with two asterisks (**) are subject to the standards in Section 4.4.400.D. Temporary uses are subject to the standards in Chapter 4.9. CUs are subject to Conditional Use permit standards in Chapter 4.4.

2.2.120 Building Setbacks

In the Commercial District, buildings are placed to encourage pedestrian traffic. The setback standards are to encourage public spaces between sidewalks and buildings. The standards are also to encourage the formation of solid blocks of commercial and retail use to encourage a walkable commercial area.

Building setbacks are measured from the respective property line to the nearest vertical wall or foundation line, whichever is closer, of any building or structure. Setbacks for porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed, apply to primary structures and accessory structures. The standards may be modified only by approval of a Variance, in accordance with Chapter 5.1.

A. Front Yard Setbacks.

1. Minimum Setback. There is no minimum front yard setback required except to provide for vision clearance standards set in Chapter 3.1.
2. Maximum Setback. There is no required maximum setback except in the City Center Sub District, which has a 5-foot maximum setback. This standard is met for City Center Sub District development when 50 percent of the front building elevation is placed no more than 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 town square with seating) is provided between the building and front property line. (See also, Pedestrian Amenities Standards in Section 2.2.160, and Design Standards in Section 2.2.150 for related building entrance standards.)

B. Rear Yard Setbacks.

1. Minimum Setback. The minimum rear yard setback for all structures shall be zero (0) feet for street access lots, and eight (8) feet for alley-access lots (distance from nearest vertical wall or foundation line of any building to rear property line or alley easement) in order to provide space for parallel parking, unless to provide for vision clearance standards set in Chapter 3.1.
2. Through-Lots. For buildings on through-lots (lots with front and rear frontage onto a street), the front yard setbacks in "A" will apply except to provide for vision clearance standards set in Chapter 3.1.

C. Side Yard Setbacks.

1. There is no minimum side yard setback required, except that buildings shall conform to the vision clearance standards in Chapter 3.1 and the applicable fire and building codes for attached structures, fire walls and related requirements.

2.2.130 Lot Coverage

- A. **Lot Coverage.** There is no maximum lot coverage requirement, except that compliance with other sections of the zoning codes may preclude full (100%) lot coverage for some land uses. Lot coverage in the Service Center and Tourist Commercial Sub District is limited to 85%.

2.2.140 Building Height

All buildings in the Commercial District shall comply with the following building height standards. The standards are intended to allow for development of appropriately scaled buildings.

- A. **Maximum Height.** Buildings shall be no more than four (4) stories or fifty (50) feet in height, whichever is greater. The maximum height may be increased by ten (10) feet when conditionally approved housing is provided above the ground floor. The building height increase for housing shall apply only to that portion of the building that contains housing. Maximum height in the Tourist Commercial and Service Center Sub Districts are limited to four (4) stories or thirty-five (35) feet in height.
- B. **Method of Measurement.** Building height is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either 2.2.140(B)(1 or 2), whichever yields a greater building height:
1. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above the lowest grade;
 2. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in subsection A is more than ten (10) feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flag-poles, and similar features which are not for human occupancy. These features will be no more than 25 feet measured from the highest point of the building.

2.2.150 Design Standards

- A. **Purpose and Applicability.** The Commercial District design standards are intended to provide similar and human scale design, while affording flexibility to use a variety of building styles. Conditional Use approval is required for those uses listed as a Conditional Use in Table 2.2.110.A. Residential development shall follow standards for residential development contained in Chapter 2.1. This section applies to all of the following types of buildings:

1. Commercial buildings intended for use as professional, retail or other similar uses and services;
2. Public and institutional buildings, except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public; and
3. Mixed use buildings (buildings containing commercial and residential uses).

B. Guidelines and Standards. The purpose of these standards is to provide that all buildings are to contribute to the appeal of the Commercial District and Sub Districts.

1. Design of Buildings and Developments. The standards in the following section shall apply to buildings and developments listed in Section 2.2.150. Buildings shall be appealing and compatible with balance of the Commercial District and Sub Districts.
 - a) Buildings under 20,000 square feet (enclosed ground floor area) shall incorporate at least five(5) of the architectural features as follows:
 - i) Decorative cornice or facade (for a flat roof) or provision of eaves or other similar decorative feature for pitched roofs;
 - ii) Decorative display windows on ground floor;
 - iii) Entrance canopy, breezeway or kiosk;
 - iv) Changes in building color or texture;
 - v) Building articulation on street frontages;
 - vi) Decorative wall or security lighting;
 - vii) Regularly spaced and similarly shaped windows;
 - viii) Decorative window hoods or trim;
 - ix) Changes in building height along street frontages;
 - x) Decorative screening of roof mounted equipment;
 - b) Buildings with greater than 20,000 square feet of enclosed ground floor space are considered "large scale buildings".
 - i.) Measurement for these buildings shall be as follows:
 - a. Multi-tenant buildings shall be counted as the sum of all tenant spaces within the same building shell; and
 - b. Multiple building developments with a combined ground floor space (enclosed) greater than 40,000 square feet (e.g., shopping centers, public and institutional campuses, and similar developments).
 - ii.) Building and Site design for large scale buildings shall include at least two (2) of the following to provide human scale design:
 - a. Incorporating changes in building direction (i.e., articulation);
 - b. Dividing large masses into varying heights and sizes;
 - c. Include building offsets projections;
 - d. Changes in elevation or horizontal direction;
 - e. Sheltering roofs or terraces;
 - f. Providing a distinct pattern of divisions in surface materials;
 - g. Use of windows, screening trees; small scale lighting (e.g., wall mounted lighting, or up-lighting).

2.2.160 Pedestrian Amenities

- A. **Purpose and Applicability.** This section is intended to provide comfortable and inviting pedestrian spaces within the Commercial District and Sub Districts. Pedestrian amenities serve as informal gathering places for socializing and resting and contribute to the enjoyment of the City's Commercial area. This section applies to all of the following types of buildings:
- 1) Public and institutional buildings, except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses); and
 - 2) Three or more single family attached townhomes on their own lots (i.e., townhomes subject to Site Design Review);
 - 3) Duplex and tri-plex developments with more than one building (i.e., duplex and tri-plex developments subject to Site Design Review);
 - 4) Multi-family housing;
 - 5) Commercial and mixed-use buildings subject to Site Design review.
- B. **Guidelines and Standards.** Every commercial development listed above shall provide at least one of the following amenities listed below. Pedestrian amenities may be provided within a public right-of-way when approved by the applicable jurisdiction.
1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance (minimum width of 6 feet);
 2. A sitting space, dining area, benches or ledges between the building entrance and sidewalk at a minimum of 16 inches height and 30 inches width;
 3. Building canopy, awning, pergola or similar weather protection (minimum projection of 4 feet over a sidewalk or other pedestrian space);
 4. Public art which incorporates seating (e.g., fountain, sculpture, etc.) or wall decoration.

2.2.170 Special Standards for Certain Uses

This section supplements the uses and standards contained in Sections 2.2.100 through 2.2.160. Conditional Use approval is required for those uses listed as Conditional Use in Table 2.2.110.A. It is to provide standards for the following land uses in order to control the scale and compatibility of those uses within the Commercial District:

- Bed and Breakfast Inns
- Accessory Uses and Structures
- Light Manufacturing Uses
- Auto Orientated Uses and Development

2.2.170 Special Standards for Certain Uses (continued)**1. Bed and Breakfast Inns**

1. **Purpose.** The purpose of this section is to provide standards for the development of a bed and breakfast inn.
 2. **Accessory Use.** A bed and breakfast inn must be accessory to a household already occupying the structure as a residence.
 3. **Maximum size.** The bed and breakfast structure is limited to a maximum of 3 bedrooms for guests and a maximum of 6 guests per night.
 4. **Employees.** The bed and breakfast facility may have up to 2 non-resident employees for the facility.
 5. **Food Service.** Food services may only be provided to overnight guests of the bed and breakfast inn.
 6. **Owner-occupied.** The bed and breakfast inn shall be owner-occupied and shall maintain the exterior physical characteristics of a single-family dwelling. No separate structures shall be allowed (except for usual residential accessory buildings such as sheds, or detached garages).
 7. **Monitoring.** All bed and breakfast inns must maintain a guest logbook. It must include the names and home addresses of guests, guests' license plate numbers if travelling by motor vehicle, dates of stay and the room number of each guest. The log must be available for inspection by City staff upon request.
- A. **Accessory Uses and Structures.** Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Boardman Commercial District include small workshops, greenhouses, studios, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the Boardman Commercial District, as identified in Table 2.2.110.A. Accessory structures shall comply with the following standards:
1. **Primary use required.** An accessory structure shall not be allowed before or without a primary use, as identified in Table 2.2.110.A.
 2. **Setback standards.** Accessory structures shall comply with the setback standards in Section 2.2.120.
 3. **Design guidelines.** Accessory structures shall comply with the Boardman Commercial District design guidelines, as provided in Section 2.2.150, and shall contribute to the visual relatedness of the district.
 4. **Restrictions.** A structure shall not be placed over or under an easement that prohibits such placement. No structure shall encroach into the public right-of-way.

2.2.170 Special Standards for Certain Uses (continued)

5. Compliance with subdivision standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
- B. **Light Manufacture.** Light manufacturing uses shall conform to the standards listed in 2.2.170(D), which are intended to protect the pedestrian-friendly character of the Commercial District. "Light manufacture" means production or manufacturing of small-scale goods, such as crafts, electronic equipment, bakery products, printing and binderies, furniture, and similar goods.
1. Retail or Service Use Required. Light manufacture is allowed only when it is in conjunction with a permitted retail or service use and does not exceed 60% of the gross floor area.
 2. Location. The light manufacture use shall be enclosed within a building, or shall be located within a rear yard not adjacent to a street and screened from public view.
 3. Other Requirements. Any allowed light manufacture shall be conducted to minimize impacts to surrounding business and services. These shall include the conditions set as follows:
 - a. Deliveries shall not interfere with normal transportation circulation (vehicular, pedestrian, etc.);
 - b. Operations shall not produce solid waste volumes in excess of 200% of the average of surrounding business' and services;
 - c. Operations shall not qualify as a hazardous waste generator or small quantity generator as defined by state and federal environmental regulations;
 - d. Operations shall not create conditions which would qualify as a nuisance or otherwise not be in compliance under other Boardman Municipal Codes; and
 - e. Shall be compatible with other Commercial area activities and operations.
- C. **Automobile Dependent and Auto-Oriented Uses and Facilities.**
1. "Automobile-dependent use" means that the use serves automobiles and/or other motor vehicles and the use cannot function without them. These uses are prohibited in the City Center Sub District, permitted as a conditional use in the Commercial District and allowed outright in the Service Center and Tourist Commercial Sub Districts because when unrestricted, they detract from the pedestrian-friendly character of the District and can consume large amounts of land compared to other permitted uses.
 2. "Automobile-Orientated Uses" means that automobiles and/or other motor vehicles are an integral part of the use.
 3. Standards: Automobile-dependent and Automobile-oriented uses shall comply with the following standards:

2.2.170 Special Standards for Certain Uses (continued)

- a. Parking, Garages, and Driveways. All off-street parking, including surface lots and garages, shall be accessed from alleys or common driveways, placed underground, placed in structures above the ground floor, or in parking areas located behind or to the side of a building. All underground or structured parking garage entrances facing a street shall be recessed behind the front elevation by a minimum of six (6) feet and have minimum queuing areas of thirty (30) feet. On corner lots, garage entrances shall be oriented to a side-street (i.e., away from a main street) when vehicle access can not be provided from an alley or a common driveway.
- b. Drive-up, drive-in, and drive-through facilities. Drive-up, drive-in, and drive-through facilities (e.g., associated with restaurants, banks, and similar uses) are permitted only when accessory to a primary commercial "walk-in" use, and shall conform to all of the standards listed below:
 - i The facility receives access from an alley or common driveway, and not a street;
 - ii None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, teller machines, service windows, drop boxes and similar facilities) are located within twenty (20) feet of a street and shall not be oriented to a street corner;
 - iii The facility is subordinate to a primary permitted use. "Subordinate" means all components of the facility, in total, occupy less street frontage than the primary commercial or public/institutional building.

D. Variances.

The standards of this section may be modified by a Class B or C variance, as detailed in Chapter 5.

2.2.180 Tourist Commercial Sub District

- A. Purpose. The purpose of the Tourist Commercial Sub District is to accommodate development of commercial facilities catering to the traveling public at the I-84 interchange. Retail services shall be limited to that necessary to serve travelers, in order to avoid competition with the Commercial District; Service Center Sub District and City Center Sub District businesses. The base standards of the Commercial District apply, except as modified by the standards of this Sub District.

2.2.180 Tourist Commercial Sub District (continued)

**Table 2.2.180 A
Land Uses and Building Types Permitted in the Tourist Commercial Sub District**

<p>1. Residential* (CU):</p> <p><i>Single-family</i></p> <p>a. Single-family attached townhomes</p> <p>b. Two and Three family housing (duplex and triplex townhomes)</p> <p>c. Multi-family housing</p> <p>d. Residential care homes and facilities</p> <p>2. Home occupations (CU)</p> <p>3. Bed & breakfast inns (CU)</p>	<p>4. Public and Institutional *:</p> <p>a. Churches and other places of worship</p> <p>b. Clubs, lodges, similar uses</p> <p>c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses)</p> <p>d. Libraries, museums, community centers, concert halls and similar uses</p> <p>e. Public parking lots and garages</p> <p>f. Private utilities (office/administration)</p> <p>g. Public parks and recreational facilities</p> <p>h. Schools (public and private) (CU)</p> <p>i. Transportation Facilities and Improvements.</p> <ol style="list-style-type: none"> 1. Normal operation, maintenance; 2. Installation of improvements within the existing right-of-way; 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; 4. Landscaping as part of a transportation facility; 5. Emergency Measures; 6. Street or road construction as part of an approved subdivision or partition; 7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and 8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU) 	<p>5. Commercial:</p> <p>a. Auto-oriented and auto dependent uses and facilities, including truck stops*</p> <p>b. Vehicle sales and repair services, including automotive, truck, RV and boat;</p> <p>c. Veterinarian clinics, animal clinics, laboratory;</p> <p>d. Office uses</p> <p>e. Mixed-Use Development (housing and other permitted development)</p> <p>f. Motels</p> <p>g. Restaurants/Food service</p> <p>g. Medical Marijuana dispensary under Oregon Health Authority license ***(CU)</p> <p>h. Uses similar to those listed above</p> <p>6. Industrial:</p> <p>a. Light manufacture (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods) when in conjunction with retail</p> <p>b. Machinery or heavy equipment sales and service</p>
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Uses marked with an asterisk (*) are subject to the standards in Section 2.2.180 - Special Standards for Certain Uses. Temporary uses are subject to the standards in Chapter 4.9. ** Uses marked with two asterisks are subject to the standards in Section 4.4.400.D. *** Uses subject to Section 4.4.400.E.

B. Special Standards [This section reserved for future use.]

2.2.190 City Center Sub District**A. Purpose and Applicability.**

The City Center Sub District provides design standards for detailed, human-scaled design, while affording flexibility to use a variety of architectural styles. The City Center Sub District may be applied by a property owner and the City to a site, which meets the following locational criteria:

- The site shall be located within the Commercial District;
- The site shall be located within a radius of ¼-mile of (but not necessarily adjacent to) Main Street;
- The site shall be adjacent to Kinkade Road, Dillabaugh Boulevard or City Center Drive.

In order for this Sub District to apply, the property owner and the City shall describe how the site meets the above locational criteria. The application for the Sub District to apply is a Type III, quasi-judicial land use application described in Chapter 4. If the Sub District were applied, the following development would adhere to the Sub District standards:

1. Public and institutional buildings, except that the standards shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses); and
2. Commercial and mixed-use buildings subject to Site Design review.

B. Design Standards.

All of the following standards in the following section shall be met.

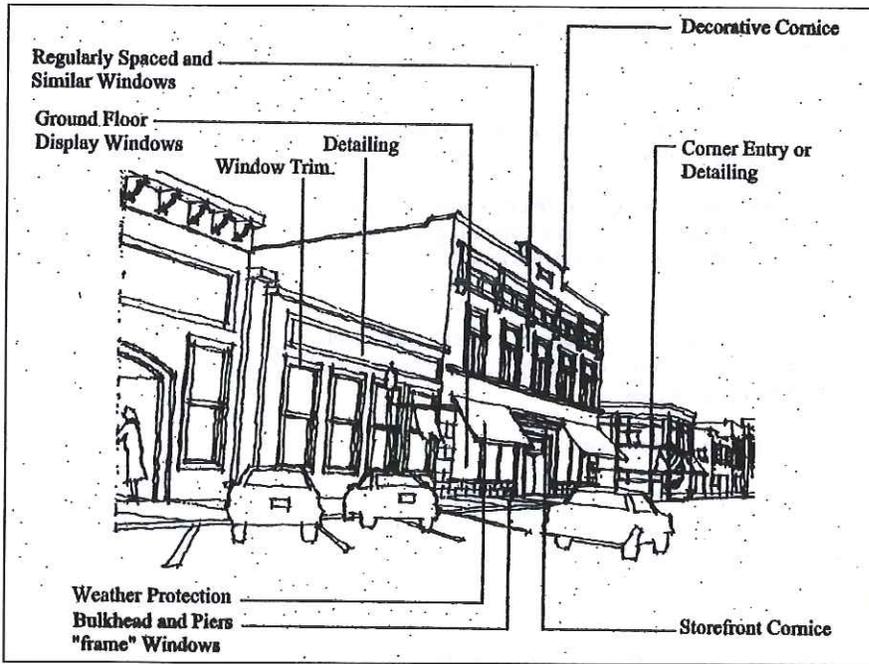
C. Detailed Storefront Design.

All buildings shall contribute to the storefront character and visual relatedness of downtown buildings. This criterion is met by providing all of the following design features listed in 1-4, below, along front building elevations (i.e., facing a street).

1. Corner building entrances on corner lots. Alternatively, a building entrance may be located away from the corner when the building corner is beveled or incorporates other detailing to reduce the angular appearance of the building at the street corner.
2. Regularly spaced and similar-shaped windows with window hoods or trim (all building stories).
3. Large display windows on the ground floor (non-residential uses only). Display windows shall be framed by bulkheads, piers and a storefront cornice (e.g., separates ground floor from second story, as shown above).
4. Decorative cornice at top of building (flat roof) or eaves provided with pitched roof.

2.2.190 City Center Sub District. (continued)

Figure 2.2.190C – City Center Building Design Elements (Typical)



Note: the example shown above is meant to illustrate required building design elements, and should not be interpreted as a required design style.

2.2.190 City Center Sub District (continued)

E. Building Orientation. This section is intended to promote the walkable, storefront character of the City Center by placing buildings close to the street. Placing buildings close to the street slows traffic down and provides more “eyes on the street”, increasing the safety of public spaces. The standards, as listed on the following page and illustrated above, complement the maximum front yard setback standards in Section 2.2.120.

1. **Applicability.** This Section applies to new land divisions and all of the following types of development within the City Center Sub District:
 - a. Commercial and mixed-use buildings subject to site design review. (Chapter 4.2).
 - b. Public and institutional buildings subject to site design review. (Chapter 4.2) except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses).
 - c. Residential buildings subject to Site Design review shall comply with the Residential District design guidelines, as listed in Section 2.1.180, in addition to this section. Where conflicts occur, the more restrictive standard shall apply.

Compliance with all of the provisions of Sections 2.2.190.E.2-4, below, shall be required.

2. **Building Orientation Standard.** All of the developments listed in Section 2.2.190.E shall be oriented to a street. The building orientation standard is met when all of the following criteria are met:
 - a. The minimum and maximum setback standards in Section 2.2.120 are met.
 - b. Buildings have their primary entrance(s) oriented to (facing) the street. Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces). Alternatively, a building may have its entrance facing a side yard when a direct pedestrian walkway is provided between the building entrance and the street right-of-way.
 - c. Off-street parking, driveways or other vehicular circulation shall not be placed between a building and the street that is used to comply with subsection ‘2’, above. On corner lots, buildings and their entrances shall be oriented to the street corner, as shown above; parking, driveways and other vehicle areas shall be prohibited between buildings and street corners.
3. **Active Ground Floor Standard.** The streetside portions of the lower floors of all buildings shall contain shops, offices, lobbies, and other activities oriented toward the passerby. Display windows for viewing the activity inside the building shall be provided.
4. **Continuous Building Frontage.** Buildings should be built to the property lines on either side so as to create a continuous line of storefronts. Access may be provided to the rear parking areas of the shops, offices etc. by an internal walkway.

2.2.190 City Center Sub District. (continued)

- E. **Residential Uses.** Higher density residential uses, such as multi-family buildings and attached townhomes, are permitted to encourage housing near employment, shopping and services. All residential developments shall comply with the following standards which are intended to require mixed-use development; conserve the community's supply of commercial land for commercial uses; provide for designs which are compatible with the balance of the City Center Sub District; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of this code are exempt from this section.
1. **Mixed-Use Development.** Residential uses may be permitted when part of a mixed-use development (residential with commercial or public/institutional use). Both "vertical" mixed-use (housing above the ground floor), and "horizontal" mixed-use (housing on the ground floor) developments are allowed, subject to the standards in 2.2.190(A)(2-6).
 2. **Limitation on street-level housing.** Ground floor street frontage will be limited to upper floor residential access only. This standard is intended to reserve commercial space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories.
 3. **Density.** There is no minimum or maximum residential density standard. Density shall be controlled by building design, fire/life/safety design, the applicable lot coverage, floor area, building height standards and off-street parking requirements.
 4. **Parking, Garages, and Driveways.** All off-street vehicle parking, including surface lots and garages, shall be oriented for reasonable access. Parking may be placed underground, placed in structures above the ground floor, or located in parking areas located behind or to the side of the building. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of six (6) feet and have minimum queuing areas of thirty (30) feet. On corner lots, garage entrances shall be oriented to a side street (i.e., away from a main street).
 5. **Creation of Alleys.** When a subdivision (e.g., four or more townhome lots) is proposed, a public or private alley may be created for the purpose of vehicle access. Alleys are not required when existing development patterns make construction of an alley impractical. As part of a subdivision, the City may require dedication of right-of-way or easements, and construction pathways between townhome lots (e.g., between building breaks) to provide pedestrian connections through a development site, in conformance with Chapter 3.1 – Access and Circulation.
 6. **Common Areas.** All common areas (e.g., walkways, drives, courtyards, private alleys, parking courts, etc.) and building exteriors shall be maintained by a homeowners association or other legal entity. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

2.2.190 City Center Sub District. (continued)

- F. **Sidewalk Displays.** Sidewalk display of merchandise and vendors shall be limited to stationary, crafts, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to the public. A minimum clearance of five (5) feet shall be maintained. Display of larger items, such as automobiles, trucks, motorcycles, buses recreational vehicles/boats construction equipment, building materials, or similar items are prohibited.

2.2.200 Service Center Sub District

- A. **Purpose.** The Service Center Sub District is designed to accommodate heavy commercial uses and light industrial uses along portions of the I-84 corridor. The base standards of the Commercial District apply, except as modified by the standards of this Sub District.
- B. **Uses Permitted.** The land uses listed in Table 2.2.200B are permitted in the Service Center Sub District, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.2.200B and land uses that are approved as "similar" to those in Table 2.2.200B, may be permitted. The land uses identified with a "CU" in Table 2.2.200B require Conditional use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.
- C. **Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in Chapter 4.8 – Interpretations.

2.2.200 Service Center Sub District (continued)

**Table 2.2.200B
Land Uses and Building Types Permitted in the Service Center Sub District**

<p>1. Residential:</p> <p>a. One caretaker unit shall be permitted for each development, subject to the standard in Section 2.2.200D.</p> <p>b. RV Parks (CU)</p> <p>2. Public and Institutional:</p> <p>a. Government facilities (e.g. public safety, utilities, school district bus facilities, public works yards, transit and transportation and similar facilities) where the public is generally not received.</p> <p>b. Private utilities (e.g. natural gas, electricity, telephone, cable and similar facilities)</p> <p>c. Water supply and treatment facility (CU)</p> <p>d. Sewage disposal and treatment facility (CU)</p>	<p>e. Transportation Facilities and Improvements.</p> <ol style="list-style-type: none"> Normal operation, maintenance; Installation of improvements within the existing right-of-way; Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; Landscaping as part of a transportation facility; Emergency Measures; Street or road construction as part of an approved subdivision or partition; Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU) 	<p>4. Commercial:</p> <ol style="list-style-type: none"> Retail store, office or service establishment Commercial / industrial full service trucking and automotive facilities, to include automobile service stations and vehicle refueling. Commercial residential use, to include tourist or travelers' accommodations. Commercial amusement or recreation establishment. b-c Medical Marijuana dispensary, Medical Marijuana Grow Facility (not on same parcel) *** (CU) <p>5. Industrial:</p> <ol style="list-style-type: none"> Manufacturing or warehousing. <p>5. Agricultural:</p> <ol style="list-style-type: none"> Farming excluding commercial livestock feedlot, livestock sales yard hog farms and mink farms. Agriculturally-oriented commercial use.(CU) b-c Medical Marijuana Grow Facility *** (CU) <p>6. Services:</p> <ol style="list-style-type: none"> Kennel or animal hospital. <p>5. Wireless Communication Equipment - subject to the standards in Chapter 3.6.200.</p>
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Uses marked with an asterisk (*) are subject to the standards in Section 2.2.180 - Special Standards for Certain Uses. Temporary uses are subject to the standards in Chapter 4.9. ** Uses marked with two asterisks are subject to the standards in Section 4.4.400.D. *** Uses subject to Section 4.4.400.E.

B. Other Yard Requirements.

- Buffering. The City may require landscaping, walls or other buffering in setback yards to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.
- Neighborhood Access. Construction of pathway(s) within setback yards may be required to provide pedestrian connections to adjacent neighborhoods or other districts, in accordance with Chapter 3.1 - Access and Circulation Standards.

3. **Building and Fire Codes.** All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).

2.2.200 Service Center Sub District (continued)

- C. **Residential Caretakers.** One residential caretaker unit shall be permitted for each primary industrial use, subject to the following conditions:
 - 1. The unit shall be served with public water and sanitary sewerage disposal, in conformance with City engineering requirements.
 - 2. Caretaker units shall be required to meet applicable fire safety and building code requirements, in addition to the applicable setback standards of this chapter.
- D. **Wireless communication equipment.** Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.6.200. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the Commercial District.

2.2.210 - BPA Transmission Easement Sub District

- A. **Purpose:** The purpose of this sub district is to identify the limitations, opportunities and process to be followed on properties, within the Commercial District, directly affected by the Three Hundred Ninety foot (390') wide Bonneville Power Administration (BPA) Transmission Line Easement. The language contained within this section is to identify flexibility in possible uses of the land under the BPA transmission lines, within the land use agreements stipulated by the BPA for the easement. All uses within the easement shall be approved by agreement with BPA prior to approval for development by the City.
- B. **Building Restrictions:** No permanent structures will be allowed within the easement area. However, buildings may go on the portions of the property outside of the easement as part of the overall development which may include land within the easement.
- C. **Height Restrictions:** No foliage or other item will be allowed to exceed twelve feet (12') in height.
- D. **Utility and Transportation Infrastructure:** Utility and transportation infrastructure shall be allowed within guidelines approved by the BPA in writing. This includes, streets, electrical, water, sewer, telephone, gas, TV, and other essential services infrastructure to provide for any allowed commercial activities.
- E. **Transmission Line Tower Setbacks:** The minimum setback from any transmission line tower shall be fifty feet (50') for all activities. Towers shall be protected from any traffic or other possible disturbance to the structural integrity of the towers.

2.2.210 - BPA Transmission Easement Sub District (continued)

F. Allowable Uses: The uses identified in 2.2.210 (F) (1-13) shall be considered for approval under a Conditional Use Permit process, as identified in Boardman Development Code Chapter 4.4. All submission requirements of Chapter 4.4 will be reviewed and will be forwarded, by the applicant, to the BPA for an approved and signed Land Use Agreement prior to any Conditional Use Hearing by the Planning Commission.

1. Single family townhomes
2. Residential duplexes or triplexes
3. Multi-family apartments
4. Residential Caretaker Unit
5. Parking lot
6. Vehicle storage
7. Vehicle sales lot
8. Vineyard operation, with retail/wholesale component*
9. Garden center/Nursery, with retail/wholesale component*
10. Mobile vendor station lease space
11. Retail sales operations with an outdoor component which are compatible with surrounding neighborhood.
12. Utility infrastructure including water lines, sewer lines, stormwater management, electrical service lines, gas lines, television cable, telephone lines, communications lines, transportation routes, and other necessary infrastructure to service the sub district.
13. Other uses considered compatible by the Boardman Planning Commission through Conditional Use Permitting process.

* = Structures necessary for retail/wholesale offices, storage, etc. must be located outside of BPA easement.

G. Safety Precautions:

1. Vehicular activities where vehicles are stored or parked for periods over two (2) hours shall have grounding mechanisms to prevent static electricity build up to prevent shock hazards.
2. Utility facilities shall be protected from shock hazards associated with static electricity discharge.
3. No combustible materials shall be stored within the easement unless approved in the Land Use Agreement from BPA.

H. Driveways and Parking Areas: Driveways and parking areas may be compacted and maintained gravel if approved by the BPA and Boardman Planning Commission to meet safety requirements in the BPA Land Use Agreement. Driveway approaches and all areas abutting a public street shall be hard surface to prevent gravel encroachment onto the street.

I. Residential Caretakers: One residential caretaker unit may be permitted for each primary commercial use, subject to the following conditions.

1. The unit shall be served with public water and sanitary sewerage disposal, in conformance with City engineering requirements.

2.2.210 - BPA Transmission Easement Sub District (continued)

2. Caretaker units shall be required to meet applicable fire safety and building code requirements, in addition to the applicable setback standards of this chapter (chapter 2.2) and sub district.
3. Other conditions identified by the Bonneville Power Administration or the Boardman Planning Commission:

J. Yard Requirements:

1. Buffering; The City may require landscaping, walls, or other buffering in setbacks areas to mitigate adverse noise, light, glare and aesthetic impacts to adjacent properties.
2. Neighborhood Access; Construction of pathway(s) within setbacks may be required to provide pedestrian connection to neighborhoods or other districts, in accordance with Chapter 3.1 of this Code and requirements of the Bonneville Power Administration.
3. Building and Fire Codes; All developments shall meet applicable fire, building and Bonneville Power Administration code standards, which may require setback different from those listed above.

EXHIBIT "C"

Chapter 4.4 - Conditional Use Permits

Sections:

4.4.100 - Purpose

4.4.200 - Approvals Process

4.4.300 - Application Submission Requirements

4.4.400 - Criteria, Standards and Conditions of Approval

4.4.500 - Additional Development Standards for Conditional Use Types

4.4.100 Purpose

There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "Conditional Uses" in Chapter 2 - Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

4.4.200 Approvals Process

- A. **Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Chapter 4.1.500). The application shall meet submission requirements in Section 4.4.300, and the approval criteria contained in Section 4.4.400.
- B. **Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 - Modifications.

4.4.300 Application Submission Requirements

In addition to the submission requirements required in Chapter 4.1, an application for conditional use approval must include the following information (1-8), as applicable. For a description of each item, please refer to Section 4.2.500 - Site Design Review Application Submission Requirements:

1. Existing site conditions;
2. Site plan;
3. Preliminary grading plan;
4. A landscape plan;
5. Architectural drawings of all structures;

4.4.300 Application Submission Requirements (continued)

- 6. Drawings of all proposed signs;
- 7. A copy of all existing and proposed restrictions or covenants.
- 8. Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.400.

4.4.400 Criteria, Standards and Conditions of Approval

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following standards and criteria:

A. Use Criteria.

- 1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
- 2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
- 3. All required public facilities have adequate capacity to serve the proposal.

B. Site Design Standards. The criteria for Site Design Review approval (Section 4.2.600) shall be met.

C. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

- 1. Limiting the hours, days, place and/or manner of operation;
- 2. Review for compatibility with Boardman City Council established Minor Child Safety Areas.
- ~~1.~~
- 2.3. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
- 3.4. Requiring larger setback areas, lot area, and/or lot depth or width;
- 4.5. Limiting the building height, size or lot coverage, and/or location on the site;
- 5.6. Designating the size, number, location and/or design of vehicle access points or parking areas;
- 6.7. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
- 7.8. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- 8. Limiting the number, size, location, height and/or lighting of signs;

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4.4.400 Criteria, Standards and Conditions of Approval (continued)

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- 8.
- 9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
- 10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
- 11. Requiring and designating the size, height, location and/or materials for fences;
- 12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.7);
- 13. Requiring the dedication of sufficient land to the public, and/or construction of a pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.1, Access and Circulation.

D. Transportation System Facilities and Improvements

- 1. City or County facilities and improvements. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the City’s adopted Transportation System Plan (“TSP”), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and satisfaction of all of the following criteria:
 - a. The project and its design are consistent with the City’s adopted TSP, or, if the city has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 (“the TPR”).
 - b. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
 - c. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities; and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.
 - d. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - e. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.
- 2. State facilities and improvements. The State Department of Transportation (“ODOT”) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 4.4.400.D. 1.b. – e. above. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
- 3. Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
 - a. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or
 - b. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or

4.4.400 Criteria, Standards and Conditions of Approval (continued)

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10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.7);
13. Requiring the dedication of sufficient land to the public, and/or construction of a pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.1, Access and Circulation.

D. Transportation System Facilities and Improvements

1. ~~City or County facilities and improvements.~~ Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the City's adopted Transportation System Plan ("TSP"), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and satisfaction of all of the following criteria:
 - a. ~~The project and its design are consistent with the City's adopted TSP, or, if the city has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 ("the TPR").~~
 - b. ~~The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.~~
 - c. ~~The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities; and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.~~
 - d. ~~The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.~~
 - e. ~~The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.~~
2. ~~State facilities and improvements.~~ The State Department of Transportation ("ODOT") shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 4.4.400.D. 1.b. - e. above. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
3. ~~Proposal inconsistent with TSP/TPR.~~ If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
 - a. ~~If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or~~
 - b. ~~If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or~~

4.4.400 Criteria, Standards and Conditions of Approval (continued)

- c. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120-day period within which to complete all local reviews and appeals once the application is deemed complete; or
 - d. If the city determination of inconsistency is part of a final decision on the conditional use permit application, the applicant shall submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
4. Expiration. A Conditional Use Permit for Transportation System Facilities and Improvements shall be void after three (3) years.

E. Medical Marijuana Dispensaries and Medical Marijuana Grow Facilities

- 1. Facilities will not be sited within Minor Children Safety Areas as defined by Chapter 9.04 of the Boardman Municipal Code.
- 2. No on-site consumption of products.
- 3. All Facilities must be licensed by the Oregon Health Authority.
- 4. Registry Identification Card and Oregon Health Authority license shall be displayed for public view.
- 5. Grow Facilities must be indoors, or sufficiently screened and ventilated to show no outward signs, or odors, of the grow operation.
- 6. Dispensary Facilities must be indoors, and sufficiently screened and ventilated to show no outward signs, or odors, of any product manufacture for edible marijuana products.
- 7. Hours of operation shall be restricted 8 hours per day and no later than 8:00 PM on week days, and no more than 6 hours per day and no later than 6:00 PM on weekends and holidays.
- 8. Shall not be sited within 1,000 feet of another marijuana dispensary.
- 9. Signs will be limited to 100 square feet per building face of the facility, with no more than two faces signed.
- 10. No outdoor storage of products.
- 11. Facilities shall be required to meet other applicable conditions found in Section 4.4.400 of this Chapter.

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4.4.500 Additional Development Standards for Conditional Use Types

- A. Concurrent Variance Application(s). A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
- B. Additional development standards. Development standards for specific uses are contained in Chapter 2 - Land Use Districts.