

LAND DEVELOPMENT CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

LAND DEVELOPMENT CODE

TABLE OF CONTENTS

CHAPTER 1. INTRODUCTORY PROVISIONS.....	1
SECTION 1.005 Recitals.....	1
SECTION 1.010 Title.....	2
SECTION 1.015 Declaration of Need.....	2
SECTION 1.020 Purpose	2
SECTION 1.025 Superiority of the Code	2
SECTION 1.030 Severability.....	2
SECTION 1.035 Scope of the Code.....	2
SECTION 1.040 Master Land Use Map	3
SECTION 1.045 Zoning Boundaries	3
SECTION 1.050 Amendments.....	3
SECTION 1.060 Existing Uses	3
SECTION 1.065 Prohibited Use	3
SECTION 1.070 Emergency	3
CHAPTER 2. ESTABLISHMENT OF ZONES.....	4
SECTION 2.010 Classification of Zones	4
SECTION 2.015 Overlay Zones.....	4
SECTION 2.020 Definitions	4
CHAPTER 3. USE ZONES.....	19
SUB-CHAPTER A. AG-1, EXCLUSIVE FARM USE	19
SECTION 3.010 Description and Purpose.....	19
SECTION 3.015 Acreage-Dimensional Standards	19
SECTION 3.020 Setbacks	20
SECTION 3.025 Uses Permitted.....	20
SECTION 3.030 Conditional Uses Allowed.....	21
SUB-CHAPTER B. AG-2, FARM PASTURE ZONE.....	21
SECTION 3.035 Description and Purpose.....	21
SECTION 3.040 Acreage-Dimensional Standards	21
SECTION 3.045 Setbacks	22
SECTION 3.050 Uses Permitted.....	22
SECTION 3.055 Conditional Uses Permitted.....	23
SUB-CHAPTER C. AG-3 SMALL FARM ZONE	23
SECTION 3.060 Description and Purpose.....	23
SECTION 3.065 Acreage-Dimensional Standards	23
SECTION 3.070 Setbacks	24
SECTION 3.075 Uses Permitted.....	24
SECTION 3.080 Conditional Uses Permitted.....	24
SUB-CHAPTER D. AG-4 AGRI-BUSINESS ZONE.....	25
SECTION 3.085 Description and Purpose.....	25
SECTION 3.090 Acreage-Dimensional Standards	25
SECTION 3.095 Setbacks	25
SECTION 3.100 Uses Permitted.....	25
SECTION 3.105 Conditional Uses Permitted.....	25
SUB-CHAPTER E. R-1 RURAL RESIDENTIAL ZONE.....	26
SECTION 3.110 Description and Purpose.....	26
SECTION 3.115 Acreage-Dimensional Standards	26

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.120	Setbacks	26
SECTION 3.125	Requirements for Use	26
SECTION 3.130	Uses Permitted.....	27
SECTION 3.135	Conditional Uses Permitted.....	27
SUB-CHAPTER F. R-2	GENERAL RURAL ZONE	27
SECTION 3.140	Description and Purpose.....	27
SECTION 3.145	Acreage-Dimensional Standards.....	28
SECTION 3.150	Setbacks	28
SECTION 3.155	Uses Permitted.....	28
SECTION 3.160	Conditional Uses Permitted.....	28
SUB-CHAPTER G. I-D	INDUSTRIAL DEVELOPMENT ZONE	29
SECTION 3.165	Description and Purpose.....	29
SECTION 3.170	Acreage-Dimensional Standards.....	29
SECTION 3.175	Setbacks	29
SECTION 3.180	Requirement for Use.....	29
SECTION 3.185	Uses Permitted.....	30
SECTION 3.190	Conditional Uses Permitted.....	31
SUB-CHAPTER H. C-D	COMMERCIAL DEVELOPMENT ZONE.....	31
SECTION 3.195	Description and Purpose.....	31
SECTION 3.200	Acreage-Dimensional Standards.....	31
SECTION 3.205	Setbacks	31
SECTION 3.210	Uses Permitted.....	32
SECTION 3.215	Conditional Uses Permitted.....	33
SUB-CHAPTER I. P-1	PUBLIC USE ZONE	33
SECTION 3.220	Description and Purpose.....	33
SECTION 3.225	Acreage-Dimensional Standards.....	33
SECTION 3.230	Setbacks	34
SECTION 3.235	Uses Permitted.....	34
SECTION 3.240	Conditional Uses Allowed.....	34
SUB-CHAPTER J. P-1	OVERLAY - U.I.R. PUBLIC USE OVERLAY ZONE	34
SECTION 3.2410	Description and Purpose.....	34
SECTION 3.2420	Acreage-Dimensional Standards	35
SECTION 3.2430	Setbacks	35
SECTION 3.2435	General Standards	35
SECTION 3.2440	Uses Allowed	35
SECTION 3.2443	Uses Permitted	35
SECTION 3.2445	Conditional Uses Allowed	35
SUB-CHAPTER K. F-2	RESTRICTED INDIAN FORESTS	36
SECTION 3.245	Description and Purpose.....	36
SECTION 3.250	Acreage-Dimensional Standards.....	36
SECTION 3.255	Setbacks	36
SECTION 3.260	Uses Permitted.....	36
SECTION 3.265	Conditional Uses Permitted.....	36
SUB-CHAPTER L. G-1	BIG GAME GRAZING FOREST ZONE.....	37
SECTION 3.270	Description and Purpose.....	37
SECTION 3.275	Acreage-Dimensional Standards.....	37
SECTION 3.280	Setbacks	37
SECTION 3.285	Uses Permitted.....	37
SECTION 3.290	Conditional Uses Permitted.....	37

STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)

SUB-CHAPTER M. F-H-O FLOOD HAZARD OVERLAY ZONE.....	38
SECTION 3.294 General Information	38
SECTION 3.295 Purpose	38
SECTION 3.300 Compliance.....	39
SECTION 3.305 Location of Flood Hazard Overlay Zone	39
SECTION 3.306 Floodways.....	39
SECTION 3.307 Before Floodway	39
SECTION 3.315 Limitations on All Uses.....	39
SECTION 3.320 Limitations on Fill	40
SECTION 3.325 Limitations on Structures	40
SECTION 3.326 Residential Structures	41
SECTION 3.327 Manufactured Structures	41
SECTION 3.328 Nonresidential Construction.....	42
SECTION 3.329 Recreational Vehicles	42
SECTION 3.330 Limitations on Storage of Material and Equipment.....	42
SECTION 3.332 Subdivision Proposals	43
SECTION 3.333 Water Dependent Uses and Structures.....	43
SECTION 3.334 Critical Facilities.....	43
SECTION 3.335 Procedure	43
SECTION 3.336 Standards for Shallow Flooding Areas (AO Zones).....	44
SECTION 3.340 Destruction of Nonconforming Use or Structures	45
SUB-CHAPTER N. P-2, PUBLIC FACILITIES ZONE.....	45
SECTION 3.400 Description and Purpose:.....	45
SECTION 3.405 Property Development Standards.....	45
SECTION 3.410 Setbacks	46
SECTION 3.415 Permitted Uses.....	46
SECTION 3.420 Conditional Uses.....	46
SUB-CHAPTER O. CR-1, COMMUNITY RESIDENTIAL ZONE.....	47
SECTION 3.425 Description and Purpose.....	47
SECTION 3.430 Acreage-Dimensional Standards	47
SECTION 3.435 Setbacks	47
SECTION 3.440 Requirements for Use	47
SECTION 3.445 Uses Permitted.....	48
SECTION 3.450 Conditional Uses.....	48
CHAPTER 4. SUPPLEMENTARY MANUALS AND PLANNING ACTIVITIES.....	48
SECTION 4.000 Description and Purpose.....	48
SECTION 4.005 Building Codes	49
SECTION 4.010 Sewage Disposal.....	49
SECTION 4.015 Domestic Water System	50
SECTION 4.020 Subdivisions.....	50
SECTION 4.025 Forest Practices.....	50
SECTION 4.030 Range Planning and Development	50
SECTION 4.035 Agriculture	50
SECTION 4.040 [Reserved].....	51
SECTION 4.045 Mining, Quarrying, or other Extracting Activity; Policies	51
SECTION 4.046 Criteria and Standards for Mining Zones.....	52
CHAPTER 5. NON-CONFORMING USES	52
SECTION 5.010 Non-Conforming Lots of Record.....	53
SECTION 5.020 Non-Conforming Uses of Land.....	53
SECTION 5.030 Non-Conforming Structures.....	53
SECTION 5.040 Non-Conforming Uses of Structure and Land	54
CHAPTER 6. CONDITIONAL USES.....	54
SECTION 6.010 Authorization to Grant or Deny Conditional Uses.....	54

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 6.015	Circumstances for Granting a Conditional Use	54
SECTION 6.020	Procedure for Taking Action on a Conditional Use.....	55
SECTION 6.025	Time Limit on a Conditional Use.....	55
SECTION 6.030	Time Limit on Reapplication	55
SECTION 6.035	Suggested Standards Governing Conditional Uses.....	55
CHAPTER 7. P.U.D. PLANNED UNIT DEVELOPMENT.....		55
SECTION 7.100	Description and Purpose.....	55
SECTION 7.200	Types of Planned Unit Development	56
SECTION 7.300	Approvals Required.....	56
SECTION 7.350	Approval Criteria.....	56
SECTION 7.400	Permitted Uses.....	57
SECTION 7.500	Development Standards.....	57
SECTION 7.600	Application Procedures	58
SECTION 7.620	Sketch Plan	58
SECTION 7.640	Tentative Plan	58
SECTION 7.650	Final Plat.....	59
SECTION 7.700	Recording the Final Plat	59
SECTION 7.800	Appeals	59
CHAPTER 8. VARIANCES.....		59
SECTION 8.010	Authorization to Grant or Deny Variances	59
SECTION 8.015	Circumstances for Granting a Variance	59
SECTION 8.016	Granting a Variance to the Flood Hazard Overlay Zone Requirements	60
SECTION 8.020	Procedure for Taking Action on a Variance Application	61
SECTION 8.025	Time Limit on a Permit for a Variance	61
SECTION 8.030	Time Limit on Reapplication	61
CHAPTER 9. ZONE CHANGE, AMENDMENTS		61
SECTION 9.000	Amendments.....	61
SECTION 9.005	Application	62
SECTION 9.010	Public Hearing on an Amendment	62
SECTION 9.015	Standards for Zone Change	62
SECTION 9.017	Action by the Board of Trustees.....	62
SECTION 9.020	Record of Amendments.....	62
SECTION 9.025	Resolution of Intent to Rezone.....	62
CHAPTER 10. SITE PLAN REVIEW.....		63
SECTION 10.005	Site Plan Review.....	63
SECTION 10.010	Elements of Site Plan.....	63
SECTION 10.015	Site Plan Approval Required.....	63
SECTION 10.020	Site Plan: Contents and Procedures.....	63
SECTION 10.025	Decision on Final Site Plan	64
SECTION 10.030	Site Plan Criteria.....	65
CHAPTER 11. LAND PROTECTION PLANNING COMMISSION		65
SECTION 11.005	Land Protection Planning Commission.....	65
SECTION 11.010	General Powers of the Commission	66
SECTION 11.015	Special Powers of the Commission.....	66
SECTION 11.020	Authorization for Similar Uses.....	66
CHAPTER 12. ADMINISTRATIVE PROVISIONS		66
SECTION 12.001	Introduction.....	66
SECTION 12.005	Code Administration	66
SECTION 12.010	Administrative Actions.....	67
SECTION 12.012	Permit Review	67
SECTION 12.015	Permit Requirements	67

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 12.017	Permit Application.....	68
SECTION 12.018	Application for Development Permit in Flood Hazard Overlay Zone	68
SECTION 12.020	Duration of Permit	68
SECTION 12.025	Extension	69
SECTION 12.030	Temporary Permit.....	69
SECTION 12.035	Fees	69
SECTION 12.040	Site Plan Review.....	69
SECTION 12.050	Special Flood Hazard Area Information to be Obtained and Maintained	69
SECTION 12.055	Alteration of Water Courses.....	70
SECTION 12.060	Interpretation of FIRM Boundaries.....	70
CHAPTER 13. HEARINGS	.....	70
SECTION 13.005	Purpose	70
SECTION 13.010	Hearings Body Order.....	70
SECTION 13.015	Hearing Date.....	71
SECTION 13.020	Notice of Hearing	71
SECTION 13.025	Contents of Notice	71
SECTION 13.030	Filing of Staff Report for Hearing	71
SECTION 13.035	Burden of Proof	71
SECTION 13.040	Nature of Evidence	71
SECTION 13.045	Limitation on Oral Presentations.....	72
SECTION 13.050	Standing	72
SECTION 13.055	Record.....	72
SECTION 13.060	Prohibition on Pre-Hearing Contacts	72
SECTION 13.065	Challenge for Bias, Prejudgment or Personal Interest	72
SECTION 13.070	Hearing Procedure	72
SECTION 13.075	Objections to Jurisdiction, Procedure, Notice or Qualifications.....	73
SECTION 13.080	Notice of Decision	73
SECTION 13.085	Review by Hearings Body.....	73
CHAPTER 14. APPEALS PROCEDURE	.....	73
SECTION 14.010	Appeals	73
SECTION 14.030	Rehearing.....	74
SECTION 14.035	Jurisdiction of Tribal Court	74
SECTION 14.040	Scope of Court's Review	75
SECTION 14.050	Unlawful Interference.....	75
CHAPTER 15. ENFORCEMENT PROCEDURES	.....	75
SECTION 15.005	Repeals.....	75
SECTION 15.010	Code Enforcement.....	75
SECTION 15.015	Violation Procedure	75
SECTION 15.100	Civil Penalties	78
SECTION 15.200	Criminal Penalties	78
CHAPTER 16. EXCEPTIONS	.....	78
SECTION 16.010	Farm Buildings	78
SECTION 16.020	Corrals and Fences.....	78
SECTION 16.030	Storage	78
SECTION 16.040	Cultural	78
SECTION 16.050	Forest Practices.....	78
CHAPTER 17. PROVISIONS APPLYING TO SPECIAL USES	.....	79
SECTION 17.005	Special Uses.....	79
SECTION 17.010	Off-Street Parking.....	83
SECTION 17.020	Standards for Net Metering Facilities	87

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

CHAPTER 18. SIGN REGULATIONS.....	87
SECTION 18.100 Purpose	87
SECTION 18.200 Scope of Sign Regulations	88
SECTION 18.300 [RESERVED].....	88
SECTION 18.400 Prohibited Signs.....	88
SECTION 18.420 Signs Exempt.....	88
SECTION 18.440 Permanent Signs Allowed without a Permit	88
SECTION 18.460 Permanent Signs Allowed with a Permit	89
SECTION 18.480 Temporary Signs Allowed without a Permit.....	90
SECTION 18.490 Sign Permit Requirements.....	91
SECTION 18.500 Non-conforming Signs	92
SECTION 18.600 Obsolete or Abandoned Signs	92
SECTION 18.700 Sign Construction, Maintenance, and Design.....	92
 CHAPTER 19. FEE SCHEDULE	 93
SECTION 19.100 Administrative Permits.....	93
SECTION 19.200 Public Hearing Requests.....	93
SECTION 19.300 Sign Regulations.....	93
SECTION 19.400 Subdivision Requests.....	93
SECTION 19.500 Appeals Requests.....	93

APPENDIX A. LEGISLATIVE HISTORY AND EDITORIAL CHANGES

APPENDIX B. MEMORANDUM OF UNDERSTANDING WITH UMATILLA COUNTY

LAND DEVELOPMENT CODE

CHAPTER 1. INTRODUCTORY PROVISIONS

SECTION 1.005 RECITALS:

WHEREAS, by solemn treaty made and concluded in the Walla Walla Valley, Washington territory on June 9, 1855; AND;

WHEREAS, said treaty was duly ratified by the Congress of the United States on March 8, 1859, 12 Stat. 945, AND;

WHEREAS, Article I of the treaty states: "An area of land shall be set apart as a residence for said Indians, which tract for the purposes contemplated, shall be held and regarded as an Indian Reservation..... which tract shall be set apart and, so far as necessary surveyed and marked out for their exclusive use, nor shall any white person be permitted to reside upon the same without permission of the agent and superintendent," AND;

WHEREAS, implicit in said treaty is the sovereign power to enact, administer, and enforce a duly ratified Comprehensive Plan and Land Development Code applicable to all land within the Umatilla Indian Reservation regardless of the issuance of any patent or deed on any lands within the Reservation, AND;

WHEREAS, The Attorney General of the United States, 23 OP. A.G. 214 has ruled that;

"The legal right to purchase land within an Indian Nation gives to the purchasers no right of exemption from the laws of such nation.....these nations are fully authorized to absolutely exclude outsiders or to permit their residence or businesses upon such terms as they may choose to impose.....", AND;

WHEREAS, the solicitor of the United States Department of Interior 55 I.D. 14, has ruled that;

"Over all the lands of the Reservation; whether owned by the Tribe by a member thereof or by outsiders, the Tribe has the sovereign power of determining the conditions upon which persons shall be permitted to enter it's domain, to reside therein, and to do business.....", AND;

WHEREAS, the Confederated Tribes of the Umatilla Indian Reservation have duly adopted and enacted a Constitution and By-Laws on December 7, 1949, AND;

WHEREAS, Section 1(d) of Article VI of said Constitution and By-Laws was amended on November 26, 1976 to read:

"To promulgate and enforce codes governing the conduct of all persons and activities within the boundaries of the Umatilla Indian Reservation," AND;

WHEREAS, said Constitution and By-Laws further state that:

"The Board of Trustees shall have the power to exercise any rights and powers heretofore vested in the Confederated Tribes, but not expressly referred to in this Constitution or any powers that may in the future be delegated by an agency of local, state or federal government," AND;

WHEREAS, the purpose statement of the current Umatilla Indian Reservation Interim Zoning Code of 1973 states:

"The purpose of this code shall be to provide interim zoning to protect the health, safety and welfare of the residents of the Umatilla Indian Reservation for which an emergency exists and to control development of the Umatilla Indian Reservation until a Comprehensive Plan of the Umatilla Indian Reservation is completed and a permanent zoning code is adopted as herein provided, AND;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

WHEREAS, a Comprehensive Plan of the Umatilla Indian Reservation was adopted by the Board of Trustees on November 27, 1979, NOW;

THEREFORE BE IT ENACTED by the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation in Oregon as follows:

SECTION 1.010 TITLE:

This code shall be known as the Land Development Code of the Umatilla Indian Reservation and shall supersede the Interim Zoning Code of 1973.

SECTION 1.015 DECLARATION OF NEED:

The Board of Trustees of the Umatilla Indian Reservation hereby declares that there is a need to ensure orderly land use and development of land within the boundaries of the Umatilla Indian Reservation. Orderly and planned construction uses of land and property on the reservation can support the fundamental basis and purpose of the creation of the Umatilla Indian Reservation to serve as a homeland for CTUIR members. Planned and regulated land use activities on the reservation protect the cultural and historical heritage of the resident tribal people as well as other persons residing within the boundaries of the Umatilla Indian Reservation. Protecting and enhancing water quality and soils through careful land use planning can enhance fish, wildlife, roots, berries and other First Foods and cultural plant resources and their use by the community. Furthermore, planned and orderly resource use protects the governance integrity, economic security and social welfare of the tribal government and its people.

SECTION 1.020 PURPOSE:

The general purpose of this Code is to protect the physical character of the reservation; to insure, conserve and enhance vegetation, soils, air, water, fish, wildlife and other natural and cultural resources of the Reservation. Further, it is the purpose of this Code to regulate building and construction activities to insure that standards are met to protect above enumerated resources, as well as the public health, safety and welfare of the residents of the Umatilla Indian Reservation, to promote orderly development of the Umatilla Indian Reservation, and to implement the provisions of the Comprehensive Plan.

SECTION 1.025 SUPERIORITY OF THE CODE:

Whenever any laws enacted by any city, municipality, state governments or any agencies thereof are found to be in conflict with the provisions of this Code, the provisions of this code shall control and supersede all such laws. This code shall supersede the Interim Zoning Code. Other tribal codes and codes not specifically repealed in this Code shall be construed consistent with the terms and purposes of this Code.

SECTION 1.030 SEVERABILITY:

If any provision, part or parts of this Code or the application thereof to any person or circumstance is held unconstitutional or invalid, the same shall not affect the validity of the remaining portions of this Code.

SECTION 1.035 SCOPE OF THE CODE:

The scope of this Code includes but is not limited to: the establishment of standards for (1) the location of land uses and buildings; (2) the promotion of the development of the reservation economy; (3) public and semi-public and other specified uses; and (4) for the construction of residences.

It shall be unlawful hereafter to use land on the Umatilla Indian Reservation in areas that are zoned herein in violation of this Code and the accompanying zoning map and Comprehensive Plan.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 1.040 MASTER LAND USE MAP:

There is hereby established an official Master Land Use Map of the Umatilla Indian Reservation. The Land Use Map shall be comprised of several zones and identified by the signature of the Chairman of the Board of Trustees and attested by the Secretary of the Board of Trustees.

The Land Use Map or an amendment thereto shall state the date of the adoption of this Code and the Tribal Resolution number. Certified prints of the zoning map or amendments thereto shall be kept in the office of the Secretary of the Board of Trustees. In the event that the map becomes damaged, destroyed or difficult to interpret because of the number and nature of changes, the Board of Trustees may by resolution adopt a new Master Land Use map which will replace the original map. The revised zoning map may correct drafting errors and omissions but no such corrections shall have the effect of amending the text of this Code.

SECTION 1.045 ZONING BOUNDARIES:

Zone boundaries are section lines, subdivision lines, allotment lines, tax lot lines, center lines of roads, streets and railroad rights-of-way, or those special areas identified by the Flood Hazard Overlay zone.

Zone boundaries indicated as following shore lines shall be construed as following shore lines and in the event that shore lines change, it shall be construed as the original shore line.

Boundaries indicated as approximately following center or mid-lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center mid-lines.

In the event any dispute arises as to an interpretation of the above zone boundary provisions the Board of Trustees shall make such interpretation which shall be final.

SECTION 1.050 AMENDMENTS:

Provisions of this Code shall be amended only by the Board of Trustees after public hearing, after which time the Board is able to deliberate on the facts and policy considerations involved in the proposed amendment. However, the Comprehensive Planning Manager shall have the authority to codify and repaginate the code as necessary to insure that the code remains consistent and up-to-date.

SECTION 1.060 EXISTING USES:

Except as hereinafter specified, any use, building or structure lawfully existing at the time of the enactment of this Code, may be continued even though such use, building or structure may not conform to the provisions of this code for the zone in which it is located; provided, however, that this Section does not apply to any use, building or structure established in violation of any zoning code previously in effect.

SECTION 1.065 PROHIBITED USE:

The following uses are prohibited on the Umatilla Indian Reservation:

1. Junk yards
2. Auto wrecking yards

SECTION 1.070 EMERGENCY:

This Manual being necessary for the immediate preservation of public peace, health and safety, an emergency is declared to exist, and this Manual takes effect on its passage.

CHAPTER 2. ESTABLISHMENT OF ZONES

SECTION 2.010 CLASSIFICATION OF ZONES:

For the purpose of this Code the following zones are hereby established on the Umatilla Indian Reservation:

<u>Name of Zone</u>	<u>Abbreviation</u>
Exclusive Farm Use	Ag-1
Farm Pasture	Ag-2
Small Farm	Ag-3
Agri-Business	Ag-4
Rural Residential	R-1
General Rural	R-2
Industrial Development	I-D
Commercial Development	C-D
Public Use	P-1
Public Facilities Zone	P-2
Restricted Indian Forest	F-2
Big Game Grazing Forest	G-1
Surface Mine	SM

SECTION 2.015 OVERLAY ZONES:

Public Use Overlay	P-1-O
Flood Hazard Overlay	F-H-O

SECTION 2.020 DEFINITIONS:

As used in this Code, the following words and phrases shall mean:

1. **Access:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. **Access or Access Way:** The place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to, through or past a property to use as required by this Code.
3. **Accessory Structure or Use:** A structure or use incidental, appropriate and subordinate to the main structure or use on the same lot.
4. **Adjacent:** Near, close; for example, an Industrial Zone across the street or highway or lot line from a Residential Zone shall be considered as "Adjacent."
5. **Agent:** Any person who represents or acts for any other person in disposing of interests in a land development. This includes a real estate broker as defined in ORS 696.010(12) but does not include an attorney at law whose representation of another person consists solely of rendering legal services.
6. **Aircraft:** Any vehicle designed or used for flight through the air and capable carrying goods or people.
7. **Aircraft landing strip or airport:** Any area of land or water which is used or intended to be used by the general public for the landing and taking off of aircraft and any support area and buildings.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

8. Allotment: An individual parcel of land which is held in trust by the United States Government.
9. AO: A Flood Hazard Overlay Zone rating identified on the Flood Insurance Rate Map (FIRM) and typified by an area of shallow flooding and sheet flow with Base Flood depths of 1 to 3 feet.
10. Apartment: A dwelling unit in a multiple-family building.
11. Approval:
 - a) Tentative: The official action taken by the Land Protection Planning Commission after a public hearing on the proposed subdivision or partition.
 - b) Final: The final official action taken by the Land Protection Planning Commission on the proposed subdivision or partition which had previously received tentative approval.
12. Area of Shallow Flooding: A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The Base Flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
13. Assessor: The County Assessor, Umatilla County.
14. Automotive, Boat or Trailer Sales Lot: An open lot used for display, sales or rental of new or used motor vehicles, boats or trailers in operative condition and where no repair work is done.
15. Automotive Repair, Major: The general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision repair service, including body, frame or fender straightening or repairs; overall painting and paint shop.
16. Automobile Repair, Minor: Upholstering of, replacement of part for, and motor service to passenger cars and trucks not exceeding one and one-half tons capacity, but not including any operation named under "Automobile Repair, Major," or any other similar operation thereto.
17. Automobile Service Station or Filling Station: An establishment where bulk sales, fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail only, and where repair service is secondary.
18. Automobile Towing: An establishment where emergency towing equipment is kept along with incidental, temporary and minor storage of vehicles and emergency repairs.
19. Automobile Wrecking: The dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. Two or more dismantled, obsolete or inoperable motor vehicles or parts thereof exposed to the public on one lot shall constitute a wrecking yard.
20. Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on Flood Insurance Rate Maps always includes the letter "A."
21. Base Flood Elevation (BFE): The computed elevation to which floodwater is anticipated to rise during the Base Flood. Base Flood Elevations are shown on Flood Insurance Rate Maps (FIRMs) and in the Flood Insurance Study on the flood profiles.
22. Basement: Any area of a building having its floor subgrade (below ground level) on all sides.
23. B.I.A.: Means the Bureau of Indian Affairs of the United States Department of the Interior.
24. Big Game: As defined in the Wildlife Code of the Confederated Tribes of the Umatilla Indian Reservation, adopted on Feb. 21, 1979.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

25. Block: An area of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-ways, bulkhead lines or shore lines of waterways, or corporate boundary lines of a city.
26. Board of Trustees: Means the 9 member elected body which constitutes the tribal government of the Confederated Tribes of the Umatilla Indian Reservation.
27. Boarding House or Rooming House: A building or premises where meals and lodging are offered for compensation for three (3) or more persons but not more than nine (9) persons, having no more than five (5) sleeping rooms for this purpose. An establishment where meals are served for more than nine (9) persons shall be deemed a restaurant. An establishment with more than five (5) sleeping rooms shall be deemed a hotel.
28. Building: A structure which is designated and suitable for the habitation or shelter of human beings or animals or the shelter or storage of property or for the use and occupation for some purpose of trade or manufacture.
29. Building Height: The vertical distance from the average contact ground level of the building to the highest point of the building.
30. Building Line: A line on a plat or map indicating the limit beyond which building or structures may not be erected subject to set back requirements in the Umatilla Reservation Land Development Code.
31. Building Lot: A lot occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, together with such open spaces as are required by this Code and having the required frontage on a street, and setbacks.
32. Building, Main: A building within which is conducted the principal use permitted on the lot, as provided in this Code.
33. Camper: A construct that:
 - a. Has a floor;
 - b. Is designed to be mounted on a motor vehicle;
 - c. Is not permanently attached to a motor vehicle;
 - d. Is designed to provide facilities for human habitation or for camping;
 - e. Is six feet or more in overall length;
 - f. Is five and one-half feet or more in height from floor to ceiling at any point; and
 - g. Has no more than one axle designed to support a portion of the weight of the camper.
34. Care Center or Facility: A facility, building, or land use operated by an agency, organization, or individual providing care of six or more individuals not related by blood, marriage to, or not the legal wards or fostered by the attendant adult.
35. Cemetery: Any place, dedicated or not, used, or intended to be used, for the permanent interment of human remains.
36. Chemicals: Any synthetically produced substance, including herbicides, insecticides, rodenticides, fertilizers and adjuvants.
37. Church: A permanently located building commonly used for religious worship, fully enclosed with walls (including windows and doors) and having a roof (canvas or fabric excluded) and conforming to applicable legal requirements affecting design and construction.
38. Commercial Amusement Facility: A facility which supplies refreshments and various forms of entertainment to the public.
39. Commercial Residential Use: A building, portion of a building or group of buildings designed or used for human occupancy or lodging for which a fee is charged, such as a hotel, motel, tourist camp or labor camp, but excluding quarters intended for permanent or semi-

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- permanent occupancy, such as a duplex or apartment. A mobile home park is not included in this definition.
40. Community Building: A building used for and operated by a non-profit organization whose membership is open to any resident of the zone, neighborhood or community in which the club is located; provided that the primary objectives of the organization are the improvement of the zone, neighborhood or community and its social welfare and recreation.
 41. Community Sewage System: A sewage system which will serve more than one lot or parcel or more than one unit of a Planned Unit Development.
 42. Community Water System: Use of water from one supply system for drinking, bathing, culinary, sanitation, and other household purposes at more than three dwellings and for irrigation of less than one half (0.5) acre of lawn and garden area per dwelling unit.
 43. Comprehensive Plan: A plan, adopted by the Board of Trustees, that sets forth the long range goals of the members of the CTUIR as they relate to Treaty-reserved rights both on and off the Reservation and the current and future needs of the people. The major emphasis of the Comprehensive plan is to guide the physical development, natural resources use and delivery of Tribal services and programs within the Reservation boundary to benefit Tribal members. The goals and objectives contained in the plan will be used to guide the actions of elected and appointed officials and Tribal departments within the CTUIR organization and influence the actions of other agencies that share common interests and are involved in implementing Tribal policies.
 44. Conditional Use: A use that may be permitted or denied at the discretion of the Land Protection Planning Commission based on findings of fact as required by this code.
 45. Confederated Tribes: Means the Confederated Tribes of the Umatilla Indian Reservation of Oregon.
 46. Construction: Means either:
 - a. the first placement of permanent construction for a structure, including but not limited to pouring slabs or footings, installing piles, constructing columns, or any work beyond the excavation stage, including placing a manufactured home on an existing foundation where no modifications are required; or
 - b. for a substantial improvement, altering any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building; and
 - c. within a Special Flood Hazard Area includes land preparation including but not limited to clearing, grading, filling, installing streets, walkways or utilities, footings, piers, foundations and erecting temporary forms.
 47. Construction Plans: Plans and specifications drawn to scale upon substantial paper or cloth and that contain sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provision of this code, the Uniform Building Codes, and all relevant laws and codes of the CTUIR.
 48. Contiguous: That which touches or connects, including that which only connects or touches a common point; the touching together of two or more tracts of land which lie alongside one another or which touch or connect with one another for any length or distance whatsoever, no matter how finite.
 49. Contiguous Land: Units of land under the same ownership which abut, irrespective of roadways, easements or rights-of-way.
 50. Corral: A pen or enclosure for confining or capturing livestock.
 51. Critical Facility: A facility for which even a slight chance of flooding is too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire,

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.
52. Cross Section: A profile of the ground surface perpendicular to the center line of a street, stream or valley bottom.
 53. Curb Lines: The line dividing the roadway from the planting strip of footway, meaning the inside (street side) of the curb.
 54. Dedication: A deliberate appropriation of the land by its owner for some public use and accepted for such use by or on behalf of the public.
 55. Density: The number of residential dwelling units per acre of land or the amount of land or the amount of land area expressed in square feet of land assignable to each dwelling unit in a residential development, including, but not limited to, one house on one lot, shall be computed as follows: The gross area of land within the development; less the total area dedicated for streets, schools or other public facilities, but not including public or private parks and recreation facilities dedicated or created as an integral part of the development; divided by the total number of dwelling units in the proposed development; equals the density. Density shall run with the land in a specific development and cannot be sold, loaned or otherwise divorced or separated from the specific development under consideration.
 56. Developer: Any person, corporation, partnership or other legal entity who creates or proposes to create a land development; includes any agent of a developer.
 57. Development: Any human made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
 58. Development Permit: A permit required through this code, to be issued by the Tribal Planning Office, that reviews the land use/zoning and International Building Code requirements for new construction, manufactured structures, building additions, remodels, accessory buildings, and all electrical, plumbing, and mechanical improvements and for all other development on the Reservation.
 59. Domestic Water Use: Shall mean any use of water for individual personal needs or for household purposes such as drinking, bathing, heating, cooking or sanitation, and other household purposes at three or fewer dwelling units and for irrigation of less than one half (0.5) acre of lawn and garden area per dwelling unit.
 60. Drainage Easement: An easement required for drainage ditches, or required along a natural stream or water course to preserve the channel, to provide for the flow of water therein, and to safeguard the public against flood damage or the accumulation of surface water.
 61. Duplex: A building designed exclusively for occupation by two families living independently of each other and containing two dwelling units.
 62. Dwelling: A building or portion thereof designed or used as the residence or sleeping place of one or more persons.
 - a) Dwelling, Single-family: A building designed or used for residence purposes by not more than one family and containing one dwelling unit only, except for mobile homes as defined herein; also excluding such temporary structures as tents, teepees, recreational vehicles and other similar uses.
 - b) Dwelling, Two-Family or Duplex: A building designed or used for residence purposes by not more than two families and containing two dwelling units.
 - c) Dwelling, Multiple-Family: A building or portion thereof designed or used as a residence by three or more families and containing three or more dwelling units.
 63. Dwelling Unit: One room, or a suite of two or more rooms, designed for and used by one family or housekeeping unit for living and sleeping purposes, and having not more than one kitchen or kitchenette.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

64. Easement: A grant of the right to use a parcel of land or portion thereof for specific purposes where ownership of the land or portion thereof is not transferred.
65. Elevated Building: A nonbasement building which has its lowest floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
66. Farm Use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the production of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticulture use or animal husbandry or any combination thereof. Farm use includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise.
67. Feedlot: Any tract of land or structure wherein any type of fowl or by-products thereof are raised for sale at wholesale or retail. Any area where a large concentrated number of animals cause substantial loss of vegetative cover. Any structure, pen or corral wherein cattle, horses, sheep, goats, swine, or similar animals are maintained in close quarters for the purpose of fattening such livestock for final shipment to market, or for breeding and will include a winter feeding area where large numbers of livestock are confined and fed.
68. Fence, Sight Obscuring: A fence or planting arranged in such a way to obstruct vision throughout the year.
69. Final Drawing: The final plan for a minor partition.
70. Final Map: The final plan for major partition.
71. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.
72. Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
73. Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that provides flood profiles and the water surface elevation of the Base Flood.
74. Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation by one tenth of a foot.
75. Forest Practice: Any activity relating to the growing, harvesting, processing or management of trees.
76. Forest Purposes: The current employment of land primarily for the purpose of raising or harvesting timber products.
77. Frontage: All property fronting on one side of a street and measured along the street lines, between intersecting and intercepting streets or between a street and right-of-way, waterway end or dead end.
78. Fuel break: The clearing of vegetation, including trees, to protect structures or areas, where the potential exists for property damage or personal injury from wildfires.
79. Gain: The amount of money or the value of property derived from the commission of a violation, less the amount of money or value of property returned to the victim of the violation or seized by or surrendered to lawful authority before the time of decision or sentence is imposed.
80. Garage: An accessory building and/or accessory portion of the main building, designed or used only for the shelter or storage of vehicles owned or operated by the occupants of the main building.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

81. Grazing: The use and management of land for the pasture of all wildlife users and domestics, herbivorous animals.
82. Hazard Tree: Dead, dying or live trees that are unstable due to structural defects or other factors that are within striking distance of a structure or area where the potential exists for property damage or personal injury.
83. Height of Building: The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points on other types of roofs.
84. Home Occupations: A home occupation is any occupation (retail, service, or manufacturing) which is clearly secondary to the main use of the premises as a dwelling place and does not change the character thereof or have any exterior evidence of such secondary use except for a sign advertising such occupation. A home occupation shall comply with the criteria specified in the section 17.005(6) of this code.
85. Horticulture: The growing of fruits, vegetables, flowers, ornamental plants, and similar crops.
86. Hourly Average Noise: The sum of 60 noise readings taken at consecutive one-minute intervals divided by the number of noise readings (60).
87. Improvements: These include but are not limited to, streets, alleys, curbs, gutters, and appurtenances, sidewalks, street lights, street signs, fire hydrants, sanitary sewers and appurtenances, public water supply and water distribution systems and other utilities.
88. Indian Health: Means the Indian Health Service of the U.S. Public Health Service.
89. Junk Yard: A place where waste, discarded or salvaged materials are stored, bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operative condition, or salvaged materials incidental to manufacturing operations.
90. Kennel: Any premises where four or more dogs, cats or other small animals or any combination thereof at least four months of age, are kept commercially or permitted to remain for board, propagation, training or sale, except veterinary clinics and animal hospitals.
91. Land Development: The subdividing or partitioning of land for any purpose or the creation of units or parcels for the purpose of sale or lease for a term of one year or more. Includes intent to dispose of any land, whether contiguous or not, including any land divided, lots, parcels, units or interests offered as a part of a common promotional plan of advertising by a single developer or a group of developers acting in concert. If the land is contiguous or is designated or advertised as a common unit or by a common name the land shall be presumed, without regard to the number of lots covered by each individual offering, to be offered for disposition as part of a common promotional plan.
92. Landscaping: The term "landscaping" includes primarily trees, grass, bushes, shrubs, flowers and garden areas, and incidental arrangements of fountains, patios, decks, street furniture and ornamental concrete or stonework areas, and artificial turf or carpeting, but excludes artificial plants, bushes, shrubs or flowers.
93. Livestock: Animals of any kind kept or raised for sale, resale, agriculture field production or pleasure.
94. Lot: A unit of land that is created by a subdivision of land. For purposes of administering the provisions of this Code, the word "lot" also refers to units of land lawfully created by the partitioning process in compliance with the laws in place at the time of creation.
95. Lot Line:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- a) Lot Front Line: The line abutting a street. For corner lots the front line is that with the narrowest street frontage. For double frontage lots the lot front line is that having frontage on a street which is so designated by the developer and approved as part of a final plat or map as provided for in this code.
 - b) Lot Rear Line: The lot line that is opposite to and most distance from the front lot line.
 - c) Lot Side Line: Any lot line that is not a lot front or rear line.
96. Lot Width: The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
97. Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a structure. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built to render the structure in violation of the applicable non-elevation design requirements found in Chapter 3, Sub-Chapter M.
98. Manufactured Home (or "Manufactured Dwelling"): A detached single-family dwelling unit (formerly known as a mobile home) that is not a recreational vehicle and which has all of the following characteristics:
- a. Designed for long-term occupancy and containing sleeping accommodations, flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems. It may have been designed for use with or without a permanent foundation when attached to utilities;
 - b. Designed to be transported after fabrication to the site where it will be installed as a complete dwelling ready for occupancy except for minor and incidental unpacking and assembly operations, including but not limited to location on foundation supports and connection to utilities; and
 - c. Consisting of one or more sections which, when assembled, constitute the entire structure.
 - d. A "Manufactured Home" includes one or more sections which, when connected together following manufacturer's instructions, constitute the entire structure.
99. Manufactured Home Park (formerly known as a "Mobile Home Park"): Any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities, or to offer space free in connection with securing the trade or patronage of such person.
100. Manufactured Structure: A building greater than 120 square feet that is designed to be:
- a. Transported after fabrication to the site where it will be installed;
 - b. Arriving at the site where it is to be occupied, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to utilities and the like. Manufactured homes are a subset of manufactured structures; and
 - c. Includes one or more sections which, when connected together following manufacturer's instructions, constitute the entire structure.
101. Manufactured Home Subdivision (formerly known as a "Mobile Home Subdivision"): A subdivision designed and intended for residential use when the lots are exclusively for manufactured housing. New subdivisions are not specifically identified for manufactured housing and all new subdivisions are required to comply with the same subdivision standards as of the effective date of this code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

102. Map, Partition: A final diagram, drawing or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information required by this manual concerning a partition.
103. Master Land Use Map: Shall be a map that specifies the areas which comprise the zones described by the text of the Land Development Code and shall be signed by the Chairman of the Board of Trustees and attested to by the Secretary of the Board of Trustees. Said map may also be defined as the zoning map.
104. Motor Home: A motor vehicle that:
 - a. Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or
 - b. Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle.
105. Multiple Family: A building or portion thereof, designed for occupancy by three or more families living independently of each other and containing three or more dwelling units.
106. Municipal Water System: Use of water by a community that is situated on the Reservation or by a community that has been incorporated under the laws of the State of Oregon outside the Reservation boundaries, where such water use includes at least community, public, commercial, and industrial beneficial uses which are served through a single water supply system that is maintained and operated by the Tribal government or a city government.
107. Land Protection Planning Commission: The Commission is delegated authority by the Board of Trustees to implement elements of the Land Development Code, and to recommend changes in policies, procedures, laws or statutes relating to land use planning and environmental health and safety to the Board of Trustees.
108. Negotiate: Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.
109. Net Metering Facility: A facility for the production of electrical energy:
 - a. Where the energy generation and energy use are located on the same parcel or on contiguous parcels of land under common ownership. Land held in title by the U.S. Government in trust for the CTUIR or individual Indians shall be considered land held in common ownership for the purpose of this definition;
 - b. That can operate in parallel with an electric utility's existing transmission and distribution system or is an "off-grid" system that does not connect to an electric utility's distribution system;
 - c. That is intended solely to offset part or all of the site's annual requirements for electricity; and
 - d. That has a designed maximum instantaneous power generation capacity (in kilowatts) that does not exceed the larger of:
 1. Two hundred percent (200%) of the measured annual average daily consumption of electrical work on the property (in kilowatt-hours) divided by 24 hours. The average should be calculated for the twelve consecutive months preceding the permitting of the Net Metering Facility; or
 2. Two hundred percent (200%) of the estimated average daily consumption of electrical work on the property (in kilowatt-hours) divided by 24 hours.
110. New Construction: Structures for which the "start of construction" commenced on or after the effective date of this Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

111. Nonconforming Lot of Record: A plot of land which is smaller than the minimum area required in a particular zone and which either was a tax lot of record or was a lot in a recorded subdivision or trust partition on the date of the adoption of this Code.
112. Nonconforming Structure or Use: A lawful existing structure or use at the time this Code or any amendment thereto becomes effective, which does not conform to the requirements of zone in which it is located and are found to be incompatible.
113. Nursery: An area where plants (trees and shrubs) are grown for transplanting, for use as stocks for budding and grafting, or for sale.
114. Owner: The owner of the title to real property or the authorized agent thereof having written notarized authorization recorded with the County Clerk, or the contract purchases of real property or record as shown on the last available complete tax assessment roll or county clerk's records. Does not include an interest created for security purposes.
115. Parcel: A unit of land that is created by a partitioning of land.
116. Parking Space: A durable, permanently surfaced and marked area, excluding paved area necessary for access, for the parking of a motor vehicle.
117. Partition: The act of partitioning land or an area or tract of land partitioned.
 - a) Major Partition: A partition which includes the actual creation of a road or street.
 - b) Minor Partition: A partition which does not require the creation of a road or street.
118. Partition Land: 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. "Partition Land" does not include divisions of land resulting from the creation of cemetery lots. "Partition Land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots of property by a single owner.
119. Permit: A document issued by the Tribal Planning Office that authorizes the applicant to start construction (*see* Start of Construction), development, or use of the project for which the permit was issued and in the manner approved by the Tribal Planning Office.
120. Plat, Subdivision: The final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information required by this code concerning a subdivision.
121. Pre-commercial Thinning: The removal of trees to reduce stocking and thereby accelerate growth on the more desirable trees; not for immediate financial gain.
122. Preliminary Drawing: A drawing of a proposed minor partition.
123. Prescribed Fire: Fire used as a management tool under specified conditions for burning a defined area.
124. Primary Use: The first use to which property is or may be devoted, and to which all other uses on the premises are derived as accessory or secondary uses. As used relative to dwelling units, the primary dwelling would be the first dwelling unit to be located on a specific parcel or lot.
125. Principal Use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are necessary.
126. Public: The Confederated Tribes of the Umatilla Indian Reservation or assigned designees (BIA, Umatilla County, the State of Oregon, or other public agency).
127. Public Use: A use owned or operated by a public organization for the benefit of the public generally. This does not include landfill sites, garbage dumps or utility facilities.
128. Quasi-judicial: A zoning action entailing application of a general rule or policy to specific individuals or situations.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

129. Range Improvement: Physical improvement. Any structure or excavation to facilitate management of range or livestock.
130. Rangeland: Land on which the natural plant cover is composed principally of native grasses, forbs or shrubs valuable for forage. Land used for grazing by livestock and big game animals on which the natural potential climax community of plants is dominated by grasses, grass-like plants, forbs and shrubs.
131. Recreation Parks: An area designated by the landowner for picnicking or overnight camping and offered to the general public, whether or not a fee or charge is made for such accommodations.
132. Recreational Vehicle: A vehicle which is:
 - a. A motor home, camper, or travel trailer;
 - b. designed as a temporary living quarters for recreation, emergencies, camping, travel, or seasonal use, but not for permanent occupation;
 - c. licensed or intended by its manufacturer to be licensed for use on public highways (lack of a required license does not exempt a recreational vehicle from this definition);
 - d. Built on a single chasis; and
 - e. Designed to be self-propelled or permanently towable by a light duty truck.
133. Reserve Strip: A strip of property contiguous to a public way which is offered to the County or Tribe for street purposes, which offer is not accepted by the County until additional adjacent right-of-way is acquired by the County, and across which the access rights are abandoned until such time as the additional adjacent Right-of-way is acquired by the County.
134. Residential: Any dwelling unit or group of units built or used for human occupancy.
135. Right-of-way: The area between the boundary lines of a street, road, or other easement.
136. Riparian Areas: Those areas associated with varying amount of surface water and a vegetative complex dependent upon water. Also, those lands adjacent to creeks, streams and rivers where the vegetation is strongly influenced by the presence of water.
137. Road or Street: A public or private way actually created to provide ingress or egress for persons to one or more lots, parcels, areas of tracts of land, excluding a private way created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.
138. Roadway: The portion of a street, right-of-way developed for vehicular traffic.
139. Sale or lease: Every disposition or transfer of land in a subdivision or an interest or estate therein, by a subdivider or developer or their agents. Includes the offering of land as a prize or gift when a monetary charge or consideration for whatever purposes is required by the subdivider, developer or their agents.
140. Sanitary Landfill: Shall be an area regulated by the Confederated Tribes for the purpose of dumping refuse, including incineration, reduction or dumping of ashes, animals, garbage, combustible and non-combustible materials.
141. Scenic Area: Land and other natural features that are valued for their aesthetic values and appearance.
142. School: A place or institution for the instruction of children in a setting other than their primary place of residence; also, an institution for instruction in a skill or business. A school includes the building or group of buildings in which instruction is given or in which students work and live.
143. Semi-Public Use: A structure or use commonly intended for a semi-public purpose such as assembly or accessory use, by a church, lodge, club or other non-profit organization.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

144. Setback: The minimum allowable horizontal distance from a given point or line of reference, such as property line, to the nearest vertical wall or other element of a building or structure as defined herein.
145. Sidewalk: A pedestrian walkway with permanent surfacing.
146. Sign: A name identification, description, display or illustration, which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. All signs within the Umatilla Indian Reservation are administered under Chapter 18 of this Code and the following are the definitions applicable:
- a) Advertising Sign: A sign which directs attention to a business, commodity, service or entertainment sold, manufactured or offered.
 - b) Area: A total or whole considered with reference to its constituent parts.
 - c) Awning sign: A sign constructed of a fabric-like non-rigid material which is part of a fabric or plastic awning. Awning signs constructed of a flammable substance are prohibited.
 - d) Banner: Any sign made of a flexible fabric-like material except an awning sign.
 - e) Billboard: An advertising sign used as an outdoor display for the purpose of directing attention to a business, commodity, service or entertainment sold, manufactured or offered at a location other than the location of the billboard sign.
 - f) Border: A strip along the edges of a sign that out-lines the display.
 - g) Canopy: Any shelter-like structure attached to a building and projecting over public or private property.
 - h) Commercial/Business Sign: Signs which are placed on buildings listing the name of one or more businesses, activities, products, or professional offices conducted or sold within a building, group of buildings, or commercial center.
 - i) Construction Sign: Sign which identifies firms or builders which are erected on the construction site prior to or during the period of construction.
 - j) Directional Sign: An on-premises or off-premise sign which carries no advertising message but simply the name or logo of an establishment and information directing persons to parking areas, entrance or exit ways, etc.
 - k) Directory Sign: A free-standing sign which contains or lists the names of businesses, activities or offices located within a building, group of buildings, commercial center or geographic area.
 - l) Faces: The direction in which a display is aimed.
 - m) Festival Sign: Signs which are placed to commemorate or attract attention to a festival recognized by the Tribe.
 - n) Free Standing Sign: A sign that is not attached to any building structure. Such signs shall include, but not be limited to, signs mounted on poles.
 - o) Ground Sign: A sign which is mounted on an extends from the ground.
 - p) Holiday Decorations: Normal and reasonable decorations associated with the celebration of a nationally or Tribally recognized holiday.
 - q) Identification Sign: A sign which carries no advertising message and is used to identify the name of a residence, institution, profession, or non-retail business occupying the premises on which the sign is located.
 - r) Illuminated Sign: A sign that is illuminated by electric or other devices mainly for clear visibility at night.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- s) Marquee Sign: A sign affixed to a hood or projecting roof structure over the entrance to a building, store, or place of public assembly with changeable letters.
 - t) Natural Grade: The highest elevation at which the base of the sign and the ground meet.
 - u) Outdoor Advertising Device: Twirling, balloons, flags, lights and other similar materials used to attract attention.
 - v) Political Sign: A sign attracting attention to political candidates or issues during an election campaign.
 - w) Portable Sign: A sign which rests on the ground or other surface, but is not directly attached to such surface, and which is designed or constructed to be mobile or movable.
 - x) Principal Sign: A primary permanent on-premise sign designed primarily to identify or advertise a business or facility to motorists and pedestrians.
 - y) Reader Board: A permanent sign affixed either to the wall of a structure or to an existing free-standing sign which is composed of a surface to which letters may be attached on a temporary basis. Reader boards shall not serve as a substitution for identification signs.
 - z) Roof Line: The highest point of the roof of the building or structure.
 - aa) Roof Sign: A sign constructed upon the roof of a building.
 - bb) Sign, Flashing: Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this code any moving, illuminated sign shall be considered a flashing sign.
 - cc) Sign Surface Area: The display area of a sign as measured by the shape of the sign including any border or trim and all elements of the matter displayed, but excluding the base or apron, supports or other structural members.
 - dd) Temporary Sign: A sign that can be used for a limited period of time as specified by this code.
 - ee) Traffic Signs: A sign indicating federal, state, or tribal regulations for automobile, truck, bicycle or pedestrian traffic.
 - ff) Tribe: The Confederated Tribes of the Umatilla Indian Reservation.
 - gg) Wall Sign: A sign affixed to the surface of the exterior wall of a building, or which forms an angle of less than thirty (30) degrees with such wall and does not project out from the wall more than twenty-four (24) inches. No wall sign shall extend above the roof line of the building upon which it is located. In cases of flat roofs, no sign shall extend above the parapets. Mansard roofs with an angle of sixty (60) degrees or more from horizontal shall be considered as wall space for the placement of graphics.
147. Site Plan: A plan prepared to scale, showing accurately and with complete dimensioning, all property lines, easements, and required separation distances between the proposed structures, property lines, streams, and utility improvements.
148. Special Flood Hazard Area (SFHA): The land in the flood plain subject to a one percent chance or greater of flooding in any given year. Designation on Flood Insurance Rate Maps always includes the letter "A."
149. Start of Construction:
- a. Generally: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement commenced within 180 days of the permit issuance date. Includes "substantial improvement."

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Otherwise, the start of construction shall be the actual start of construction, as defined below.

- b. **Actual Start:** Either the first placement of a permanent part of a structure on a site, such as the pouring of a slab or footings, installation of piles, construction of columns, any work beyond the stage of excavation, or the placement of a manufactured structure on a foundation. Land preparation, such as clearing, grading and filling, excavation for a basement, footings, piers, foundations or the erection of temporary forms shall not be considered the actual start of construction. For substantial improvements, the actual start of construction shall be the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 150. **Stream:** A natural water course with a definite bed, banks, and zone of riparian vegetation as it existed under natural conditions. Any act of obliteration of the bed, banks, or vegetation of a stream does not cancel the existence of the stream, if natural processes will in the course of time and in the absence of human interference restore it to a condition similar to that existing prior to such act of obliteration.
 - 151. **Structural Alteration:** Any change in the supporting members of a building, such as bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.
 - 152. **Structure:** Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, driveways, walks and fences. **Structure (in the Special Flood Hazard Area):** A walled and roofed building, including a gas or liquid storage tank that is principally above ground.
 - 153. **Structure Height:** The vertical distance from the average contact ground level of the structure to the highest point of the structure.
 - 154. **Subdivide Land:** To divide an area or tract of land into four or more lots within a calendar year, when this area or tract of land exists as unit or contiguous units of land under single ownership at the beginning of that year.
 - 155. **Subdivider:** Any person who causes land to be subdivided into a subdivision for himself or for others, or who undertakes to develop a subdivision but does not include a public agency or officer authorized by law to make subdivisions.
 - 156. **Subdivision:** An area or tract of land divided into four or more lots within a ten year time period beginning from the date of approval of a land partition, when this area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of that time period.
 - 157. **Subdivision Review Committee:** A committee as set forth in subsection of the Subdivision Manual to review subdivision and other development proposal.
 - 158. **Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damage condition would equal or exceed 50 percent its pre-damage market value.
 - 159. **Substantial Improvement:** Any repair, reconstruction, or improvement to a structure, the cost of which equals or exceeds 50 percent of its market value either:
 - a. Before the improvement or repair is started; or
 - b. If the structure has been damaged and is being restored, before the damage occurred; but not including either:
 - 1. Improvement to a structure to correct a violation of a tribal statute which has been identified by the tribal official responsible for the administration of the

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- statute and is the minimum improvement necessary to comply with the statute,
or
2. Alteration of a structure listed on the National Register of Historic Places or the Tribal Inventory of Historic Places.
- c. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
160. **Surface Mining:** Includes all or any part of the process of mining minerals by the removal of overburden and extraction of natural mineral deposits thereby exposed by any method by which more than 50 cubic yards of minerals are extracted (does not include excavation for a basement, footings, piers or foundations associated with the construction of a structure) or by which at least one acre of land is affected within a period of 12 consecutive calendar months, including open pit mining operations, auger mining operations, river gravel extraction, production of surface mining refuse, the construction of adjacent or off-site borrow pits (except those constructed for use as access roads), and prospecting and exploration activities coming within the quantity or area specification set forth herein or when such activities affect more than one acre of land for each eight acres of land prospected or explored; but excluding excavations of sand, gravel, clay or other similar materials conducted by the landowner or tenant for the primary purpose of construction, reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction, or underground mines.
161. **Temporary Use:** The purpose for which land or a structure is designated, arranged or intended, or for which it is occupied or maintained for six months or less.
162. **Tentative Map:** A map setting forth the proposed plan or a major partitioning in conformance with the provisions of this Code and subject to review and modification.
163. **Tentative Plan:** A preliminary map, drawing or chart of the subdivision, dedication, or portion thereof, containing the elements and requirements set forth within this Code and which the subdivider submits for tentative approval at a public hearing.
164. **Timber Harvest:** The removal of timber from parent property in an amount greater than 5,000 board foot gross volume.
165. **Trailer Park:** A parcel of land upon which two or more trailers occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodations.
166. **Tribal Planning Office:** The Office of the Confederated Tribes of the Umatilla Indian Reservation, under the direction of the Comprehensive Planning Manager, which is responsible for planning, maintenance, research, enforcement, and administration of the Land Development Code. Other duties of the office include environmental health, and building inspection services.
167. **Trust Land:** Means any land in which the legal title is in the United States and beneficial or equitable title in the Tribe or an Indian Allottee.
168. **Use:** The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.
169. **Utilities:** Include electric, telephone, natural gas, water, sewer and other services that provide energy, communication, or sanitation needs.
170. **Utility facility:** A building necessary for the transmission, maintenance, and/or function of a utility, where personnel are only periodically present to maintain or upgrade equipment. Utility Facilities do not include “Wind Power Generation Facility” or “Net Metering Facility.”
171. **Value:** The market value of the property at the time and place of the violation, or if such cannot be reasonably ascertained, the cost of replacement of the property within a reasonable time after the violation.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

172. Variance: An authorization granted by the Land Protection Planning Commission for an action or development which is otherwise prohibited by the Land Development Code.
173. Veterinary Clinic: A business established in which veterinary services are rendered to domestic animals.
174. Violation: The circumstances which exist when the required approval for a land use or practice has not been granted and the violator has commenced the use or practice.
175. Violator: Any person, including but not limited to the landowner, timber or crop owner, equipment operators, and building contractors, who commits a violation.
176. Water Dependent: A structure or use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.
177. Water Well: Any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, providing that this definition does not include a natural spring, or is artificially withdrawn or injected. The well includes the borehole, casing, casing seal, well cap, access port, and where used or required liner pipes, screens, and pressure gauge.
178. Wind Power Generation Facility: An energy facility that consists of one or more wind turbines or other such devices and their related or supporting facilities that produce electric power from wind for sale or use off-site and are:
 - a. Connected to a common meter, control or dispatch, switching station; or
 - b. Constructed, maintained, or operated as a contiguous group of devices.
179. Winter Range: Are those area that are utilized by big game during the winter months.
180. Yard, Front: An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Code. Distances referred to throughout this Code shall constitute building setback requirements.
181. Yard, Rear: An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this Code.
182. Yard, Side: An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this Code.
183. Zone: A specifically delineated area or district within the Reservation within which regulations and requirements uniformly govern the use, placement, spacing, lot area and buildings.
184. Zoning Map: See Master Land Use Map.

CHAPTER 3. USE ZONES

SUB-CHAPTER A. AG-1 -- EXCLUSIVE FARM USE

SECTION 3.010 DESCRIPTION AND PURPOSE:

The AG-1, Exclusive Farm Use is designed to maintain the agricultural economy of the Umatilla Indian Reservation. The purpose of this zone is to preserve and maintain agricultural lands for farm use. These lands are viewed as largely undeveloped, limited and irreplaceable, agricultural soils.

SECTION 3.015 ACREAGE-DIMENSIONAL STANDARDS:

1. There shall be a 159 acre minimum lot size.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

2. Land partitions for non-farm residential uses and may be established on generally non-productive agricultural lands upon a finding by the Land Protection Planning Commission that each such use:
 - a) Is compatible with farm uses and is consistent with intent and purposes set forth in the Comprehensive Plan and this Code.
 - b) Is situated upon generally unsuitable land for the production of farm crops and livestock considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract, historical cropping patterns and availability of water for irrigation.
3. Single family dwellings existing on October 13, 2008 may be partitioned from the parent parcel subject to the following:
 - a) Compliance with the Tribal Planning Office partition application process and the provisions of the CTUIR Subdivision Manual.
 - b) The maximum lot size shall be limited to two acres (the area necessary to accommodate the existing dwelling(s) and related homesite developed areas), unless, due to topography, a larger lot size is deemed necessary.
 - c) The remaining acreage of the parent lot, after the existing dwelling area has been partitioned, shall remain vacant. The remaining acreage of the parent lot shall continue to be used for farm uses and may include farm buildings as defined in Section 16.010.

SECTION 3.020 SETBACKS:

1. No building shall be located closer than 20 feet from a property line or street or road.
2. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark.
3. All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.025 USES PERMITTED:

In an Ag-1 Zone the following uses and accessory uses are allowed upon issuance of a Development Permit or Forest Practice Permit;

1. Farm use as defined by this Code;
2. Utility facilities necessary for a public service excluding commercial facilities for sale to the public;
3. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
4. Net metering facility; solar only, subject to Section 17.020 of this Code;
5. Single family dwellings, including manufactured housing;
6. Planned Unit Developments, subject to Chapter 7 of this Code;
7. Forest Practices, subject to Section 4.025 of this Code:
 - A. Timber removal less than or equal to 5,000 board foot gross; such as, but not limited to:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

1. Pre-commercial thinning;
 2. Road construction/road closures; or
 3. Non-emergency fuel breaks;
- B. Portable saw mill operations;
- C. Chemical applications;
- D. Prescribed Fire;
- E. Destructive forest research studies involving <5000 board feet.

SECTION 3.030 CONDITIONAL USES ALLOWED:

In an Ag-1 Zone the following uses are permitted subject to the requirements listed under Section 6.010 through 6.035 inclusive and upon issuance of a Development Permit or Forest Practice Permit.

1. Farm Storage Facilities;
2. Timber harvest, timber removal greater than 5,000 board foot gross, subject to Section 4.025 of this Code;
3. Parks, playgrounds, wildlife sanctuaries, community facilities operated by and for the Confederated Tribes of the Umatilla Indian Reservation;
4. Agricultural research, experiments, projects or buildings related thereto;
5. Tribal cemeteries;
6. Agri-business excluding agriculturally related business or industry with objectionable noises, odors, hazards or other such conditions;
7. Non-commercial feedlot;
8. Non-commercial airstrip;
9. Greenhouses in excess of 300 square feet (except commercial retail nursery);
10. Net Metering Facilities, excluding solar, subject to Section 17.020 of this Code;
11. Public or Semi-public use.

SUB-CHAPTER B. AG-2 -- FARM PASTURE ZONE

SECTION 3.035 DESCRIPTION AND PURPOSE:

The Ag-2, Farm Pasture Zone is designed to maintain the agricultural land base taking into consideration special management practices due to steeper sloped, shallower soils and special wildlife and fish habitats. It is also designed to afford better control over lands where farm and rangelands are interspersed. Foods, herbs and medicines traditional to the Confederated Tribes are also found in this region making it necessary for the Land Protection Planning Commission or the Board of Trustees to place further restrictions from time to time.

SECTION 3.040 ACREAGE-DIMENSIONAL STANDARDS:

1. There shall be a 79-acre minimum lot size.
2. Land partitions for non-Farm residential uses may be established on generally non-productive agricultural lands upon a finding by the Land Protection Planning Commission that each such use:
 - a) Is compatible with farm uses and is consistent with intent and purposes set forth in the Comprehensive Plan and this Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- b) Is situated upon generally unsuitable land for the production of farm crop and livestock considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract, historical cropping patterns and availability of water for irrigation.
3. Existing farm dwellings may be converted to non-farm dwellings by land partitioning subject to the following:
- a) Compliance with the Tribal Planning Office partition application process and the provisions of the CTUIR Subdivision Manual.
 - b) The maximum lot size shall be limited to two acres (the area necessary to accommodate the existing dwelling, accessory structures, septic system and drainfield and well) unless, due to topography or other circumstances, a larger lot size is deemed necessary.
 - c) The remaining acreage of the parent lot, after the existing dwelling area has been partitioned, shall remain vacant. The remaining acreage of the parent lot shall continue to be used for farm uses and may include farm buildings as defined in Section 16.010.

SECTION 3.045 SETBACKS:

- 1. No building shall be located closer than 20 feet from a property line or street or road.
- 2. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
- 3. All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.050 USES PERMITTED:

In an Ag-2 Zone the following uses and their accessory uses are allowed upon the issuance of a Development Permit or Forest Practice Permit.

- 1. Farm use as defined by this Code;
- 2. Single family dwellings, including manufactured housing;
- 3. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
- 4. Net metering facility, solar only, subject to section 17.020 of this Code;
- 5. Planned Unit Developments, subject to Chapter 7 of this Code;
- 6. Forest Practices, subject to Section 4.025 of this Code:
 - A. Timber removal less than or equal to 5,000 board foot gross; such as, but not limited to:
 - 1. Pre-commercial thinning;
 - 2. Road construction/road closures; or
 - 3. Non-emergency fuel breaks;
 - B. Portable saw mill operations;
 - C. Chemical applications;
 - D. Prescribed Fire;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

E. Destructive Forest research studies involving <5000 board feet.

SECTION 3.055 CONDITIONAL USES PERMITTED:

In an Ag-2 Zone the following uses are permitted subject to the requirements listed under section 6.010 through 6.035 inclusive and upon the issuance of a Development Permit or Forest Practice Permit.

1. Timber harvest, timber removal greater than 5,000 board foot gross, subject to Section 4.025 of this Code;
2. Parks, playgrounds, wildlife sanctuaries and community facilities operated by and for the Confederated Tribes of the Umatilla Indian Reservation;
3. Agricultural research, experiment, projects, or buildings related thereto;
4. Utility facility;
5. Veterinary or animal hospital;
6. Commercial activities that are in conjunction with a permitted use;
7. Boarding or lodging house;
8. Agri-business excluding agriculturally related business or industry with objectionable noises, odors, hazards or other such conditions;
9. Sanitary Land Fill operated by and for the Confederated Tribes;
10. Roadside stand for sale of agriculture products;
11. Cemeteries;
12. Greenhouses in excess of 300 square feet;
13. Horse, cattle and dairying operations provided that they meet requirements of the Environmental Health Officer and are well maintained.
14. Net Metering Facilities, excluding solar, subject to section 17.020 of this Code;
15. Public or Semi-Public use.

SUB-CHAPTER C. AG-3 -- SMALL FARM ZONE

SECTION 3.060 DESCRIPTION AND PURPOSE:

The Ag-3 Small Farm Zone is designed to maintain the agricultural lands and open space of the Reservation and yet accommodate high intensity agriculture of such as the product of fruit crops, vegetable crops, greenhouses, hay crops and certain types of animal husbandry **excluding feed lots and hog farms**, in areas with adequate soils and efficient irrigation systems. The small farm zone is also designed to allow tribal members and other persons to more economically become involved in agriculture on a small scale to reduce the cost of living and/or provide additional income.

SECTION 3.065 ACREAGE-DIMENSIONAL STANDARDS:

1. There shall be a 9 acre minimum lot acreage.
2. The minimum average lot width shall be 100 feet and the minimum street frontage, 50 feet; minimum average lot depth shall be 150 feet.
3. Non-farm residential uses and land divisions therefore may be established on generally non-productive agricultural lands upon a finding by the Land Protection Planning Commission that each such use:
 - a) Is compatible with farm uses and is consistent with intent and purposes set forth in the Comprehensive Plan and this Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- b) Is situated upon generally unsuitable land for the production of farm crops and livestock considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of tract, historical cropping patterns and availability of water for irrigation.

SECTION 3.070 SETBACKS:

1. No building or structure shall be located closer than 20 feet from a property line or street or road.
2. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark.
3. All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.075 USES PERMITTED:

In Ag-3 Small Farm Zone the following uses are permitted upon issuance of Development Permit.

1. Farm Use as defined by this Code (except, livestock feed yards and hog farms);
2. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
3. Net metering facility, solar only, subject to section 17.020 of this Code;
4. The propagation, growing and harvesting of nursery products;
5. Single family dwellings and buildings which are customary with the farm use;
6. Manufactured home;
7. Planned Unit Development when the overall density resulting from the parcel of land to be developed does not exceed one (1) dwelling unit per nine (9) acres.

SECTION 3.080 CONDITIONAL USES PERMITTED:

In an Ag-3 Small Farm Zone the following uses are permitted subject to the requirements listed under Section 6.010 through 6.035 inclusive and upon the issuance of a Development Permit.

1. Farm Storage facilities;
2. Parks, playgrounds, wildlife sanctuaries and community facilities operated by and for the Confederated Tribes of the Umatilla Indian Reservation;
3. Agricultural, research experiment, projects and/or buildings related thereto;
4. Utility facilities necessary for a public service excluding commercial facilities for sale to the public;
5. Horse, cattle and dairying operations provided that they meet requirements of the Environmental Health Code and are well maintained;
6. Roadside stand for sale of agricultural products;
7. Cemeteries;
8. Greenhouses in excess of 300 square feet;
9. Personal-use landing strip for airplanes and helicopter pads, including associated facilities;
10. Schools;
11. Churches;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

12. Net metering facilities, excluding solar, subject to section 17.020 of this Code;
13. Public or Semi-public use.

SUB-CHAPTER D. AG-4 -- AGRI-BUSINESS ZONES

SECTION 3.085 DESCRIPTION AND PURPOSE:

An Ag-4 Agri-Business Zone is designed to provide areas for certain types of agriculturally oriented businesses and services which may not otherwise need to locate in more intensive commercial or industrial areas. It may be appropriate for storage, handling or processing of agricultural products, or provide area for agriculturally oriented businesses which require larger areas.

SECTION 3.090 ACREAGE-DIMENSIONAL STANDARDS:

1. There shall be a five (5) acre minimum lot size for placement of a dwelling unit or caretakers residence.
2. The minimum average lot width shall be 100 feet, with a minimum of 25 road frontage.

SECTION 3.095 SETBACKS:

1. No building or structure shall be located closer than 30 feet from a property line or street or road.
2. All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
3. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark.

SECTION 3.100 USES PERMITTED:

In an Ag-4, Agribusiness Zone the following uses are permitted upon the issuance of a Development Permit.

1. Farm use as defined by this code, except livestock feed yards or hog farms;
2. Farm machinery service and storage;
3. Greenhouses in excess of 300 square feet;
4. Feed and seed processing and cleaning;
5. Grain elevators;
6. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
7. Net metering facility, solar only, subject to section 17.020 of this Code;
8. Sport complexes or physical training facilities operated by and for the Confederated Tribes of the Umatilla Indian Reservation;
9. Commercial nurseries or greenhouse;
10. Railways shall be zoned AG-4, Agri-business;
11. Cold Storage Plant.

SECTION 3.105 CONDITIONAL USES PERMITTED:

In an Ag-4 zone the following uses are permitted subject to the requirements listed under Section 6.010 through 6.035 inclusive and upon the issuance of a Development Permit.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

1. Hog farm with full containment and sanitation facilities;
2. Livestock feed yard;
3. Sanitary land fill operated by and for the Confederated Tribes;
4. Public or semi-public use;
5. Net metering facility, excluding solar, subject to section 17.020 of this Code;
6. Veterinary or animal hospital;
7. Dog pound or kennel;
8. Cemeteries.

SUB-CHAPTER E. R-1 -- RURAL RESIDENTIAL ZONE

SECTION 3.110 DESCRIPTION AND PURPOSE:

The R-1, Rural Residential Zone is intended to promote areas for medium density suburban residential development in close proximity to necessary public utilities (water, sewer, electricity, natural gas, telephone, etc.)

SECTION 3.115 ACREAGE-DIMENSIONAL STANDARDS:

1. Two (2) acre minimum lot size for the R-1, Rural Residential Zone.
2. No building or structure shall be hereafter erected, enlarged, or structurally altered to exceed 30 feet in height.
3. Lot Width: Every lot shall have a minimum average width of 100 feet.
4. Frontage: Every lot shall have a minimum width at the street of 50 feet except that on an approved cul-de-sac this may be reduced to 30 feet.
5. Side Yard: A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet.
6. Rear Yard: The rear yard shall be a minimum of 20 feet.
7. Lot Coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.

SECTION 3.120 SETBACKS:

1. No building or structure shall be located closer than 20 feet from a front property line or street or road or closer than 10 feet from an existing right-of-way or easement. Should the existing right-of-way or easement be construed as the property line, then the 20 foot requirement shall stand.
2. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.125 REQUIREMENTS FOR USE:

1. All residential development in a R-1, Rural Residential Zone shall be completed so as to hook-on to the existing sewer trunkline and Mission Water System;
2. Adequate structures, adequate corrals and fencing shall be provided for all animals.
3. One horse, cow, goat, sheep, swine, or other livestock shall have a corral or pasture with a useable area of at least 7,500 square feet.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

4. No enclosures for horses, cows, goats, sheep, swine, or other livestock, shall be located closer than 100 feet to a neighboring dwelling.
5. Fences erected in connection with keeping of livestock shall be of lumber or other standard fencing material (not including barbed wire or electric fence) shall be kept in good repair, and shall be at least 4 feet in height.

SECTION 3.130 USES PERMITTED:

In a R-1 Rural Residential Zone the following uses and accessory uses are permitted upon the issuance of a Development Permit:

1. Dwelling, single family;
2. Manufactured home;
3. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
4. Net metering facility, solar only, subject to section 17.020 of this Code;
5. Non-Commercial outdoor recreation;
6. Non-commercial greenhouse or nursery;
7. Planned Unit Development, subject to the planned unit development standard, requirements and procedures in Chapter 7.

SECTION 3.135 CONDITIONAL USES PERMITTED:

In a R-1, Rural Residential Zone the following uses and their accessory uses are permitted, subject to the requirements of Section 6.010 through 6.035 inclusive and upon the issuance of a Development Permit.

1. Commercial greenhouse or nursery;
2. Small Animal Veterinary Clinic or animal hospital;
3. Utility facility;
4. Net metering facility, excluding solar, subject to section 17.020 of this Code;
5. Roadside stand for sale of agricultural products;
6. Temporary Use;
7. Manufactured home parks;
8. Church, schools;
9. Boarding, lodging, rooming house;
10. Duplexes;
11. Parks, playgrounds;
12. Public or Semi-public use.

SUB-CHAPTER F. R-2 -- GENERAL RURAL ZONE

SECTION 3.140 DESCRIPTION AND PURPOSE:

The R-2, General Rural Zone is intended as a transition zone from agricultural uses to rural residential uses or small farms. These lands contain many developed and undeveloped lots of record of varying acreages and uses with inadequate flood plain management and lack of planned efficient utility systems.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.145 ACREAGE-DIMENSIONAL STANDARDS:

1. There shall be a 19 acre minimum lot acreage for a dwelling unit.
2. The minimum average lot width shall be 100 feet and the minimum street frontage 50 feet.
3. The minimum average lot depth shall be 150 feet.
4. No building or structure shall be hereafter erected, enlarged, or structurally altered to exceed 100 feet in height.

SECTION 3.150 SETBACKS:

1. No building or structure shall be located closer than 20 feet from a property line or street or road or closer than 10 feet from an existing right-of-way or easement. Should an existing right-of-way or easement be construed as the property line, then the 20 foot requirement shall stand.
2. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark.
3. All structure buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.155 USES PERMITTED:

In a R-2, General Rural Zone the following uses and their accessory uses are permitted upon the issuance of a Development Permit.

1. Farm use as defined by this code;
2. Dwelling, single family;
3. Manufactured home;
4. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
5. Net metering facility, solar only, subject to section 17.020 of this Code;
6. Non-Commercial outdoor recreation;
7. Planned Unit Development, subject to Chapter 7 of this code;
8. Non-commercial greenhouse less than 300 square feet or a non-commercial nursery.

SECTION 3.160 CONDITIONAL USES PERMITTED:

In a R-2 zone the following uses are permitted subject to the requirements listed under Section 6.010 through 6.035 inclusive and upon issuance of a Development Permit.

1. Sanitary landfill operated by and for the Umatilla Confederated Tribes;
2. Veterinary or animal hospital;
3. Dog pound or kennel;
4. Schools;
5. Churches;
6. Grain Elevators;
7. Sports complexes or physical training facilities operated by and for the Umatilla Confederated Tribes;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

8. Commercial nurseries;
9. Commercial greenhouses;
10. Roadside stands for sale of agricultural products;
11. Nursing Homes;
12. Duplex;
13. Manufactured Home Park;
14. Public or Semi-public use;
15. Net metering facility, excluding solar, subject to section 17.020 of this Code.

SUB-CHAPTER G. I-D -- INDUSTRIAL DEVELOPMENT ZONE

SECTION 3.165 DESCRIPTION AND PURPOSE:

The I-D, Industrial Development Zone is intended to provide areas for industrial development compatible with the economic resource base of the Umatilla Indian Reservation and the economic needs and wants of the people of the reservation. This zone designation is appropriate for areas in close proximity to major transportation facilities and necessary utilities, while preserving or enhancing the air, water and land resources of the area.

SECTION 3.170 ACREAGE-DIMENSIONAL STANDARDS:

1. No building or structure shall be hereafter erected, enlarged, or structurally altered to exceed a height of 45 feet except grain elevators.
2. Each lot shall have a minimum dimension of 100 feet.

SECTION 3.175 SETBACKS:

1. No building or structure shall be located closer than 35 feet from a property line or street or road.
2. All structures, buildings or similar permanent fixtures, shall be set back from the upper edge of the flood water channel or high-water line or mark, whichever is greater, along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.180 REQUIREMENTS FOR USE:

1. All business, commercial and industrial activities and storage allowed in an I-D, Industrial Development Zone shall be adequately landscaped to provide aesthetic enhancement. Such landscaping shall be completed within 15 feet, but no closer than 5 feet of a property line or street or road, and shall allow adequate sighting distance all intersections.
2. Point of access from a public street or road to properties in an ID, Industrial Development zone, shall be located to minimize traffic congestion and avoid directing traffic onto residential streets.
3. All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall be confined or reduced so as to not be unduly detrimental to surrounding properties.
4. Material shall be stored and grounds shall be maintained in a manner which will not attract or aid in the propagation of insects or rodents or otherwise be a detriment to the health, safety or welfare of the residents of the Umatilla Indian Reservation.
5. All uses shall comply with Chapter 10, Site Plan Review.
6. Off-street parking and loading space shall be provided as required by section 17.010.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

7. Fences, walls, or hedges may be required by the Comprehensive Planning Manager if screening is necessary to protect the residential quality of adjacent property in any residential zone.

SECTION 3.185 USES PERMITTED:

In an I-D, Industrial Development Zone the following uses and accessory uses are permitted upon issuance of a Development Permit.

1. Blacksmith or machine shop;
2. Wholesale greenhouse or nursery;
3. Grain elevator;
4. Hauling, freighting and trucking yard or terminal;
5. Ice or cold storage plant;
6. General Industrial: Including manufacturing, compounding, processing, packaging, repairing, treatment or fabrication of materials, assembling or treatment of products, but not including a rendering plant;
7. Warehouse or mini-warehouses including storage and mini-storage units;
8. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
9. Net metering facility, solar only, subject to section 17.020 of this Code;
10. Foundry, less than 2,500 square feet of floor area;
11. Tire recapping;
12. Custom meat cutting and cold storage locker;
13. Farming;
14. Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fence;
15. Freight Depot;
16. Wholesale distribution outlet including warehousing but excluding open outside storage;
17. Utility Facility;
18. Laboratory for experiment, research or testing;
19. Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.
20. Machinery, equipment or automobile sales, service or storage.
21. Limited retail when in conjunction with products manufactured on site, not to exceed 25% of total industrial floor area.
22. Processing, packaging or storage of food or beverages including wineries and breweries, but not including processes involving slaughtering or rendering of fats and oils.
23. Incidental provision of food service when associated with a permitted industrial use.
24. Animal hospital or veterinary clinic.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.190 CONDITIONAL USES PERMITTED:

In an I-D Industrial Development zone the following uses and their accessory uses are permitted, subject to the requirements of Section 6.010 through Section 6.035 inclusive and upon issuance of a Development Permit:

1. Flour Mill;
2. Concrete block or pipe manufacturing;
3. Concrete manufacturing plant;
4. Foundry, in excess of 2,500 square feet of floor area;
5. Manufactured home or dwelling unit accessory to a permitted or conditional use, for use as accommodations for a caretaker or night watchman;
6. Asphalt plant;
7. Public use operated by or for the Confederated Tribes of the Umatilla Indian Reservation;
8. Net metering facility, excluding solar, subject to section 17.020 of this Code;
9. Any use not identified in Section 3.185, Uses Permitted.

SUB-CHAPTER H. C-D -- COMMERCIAL DEVELOPMENT ZONE

SECTION 3.195 DESCRIPTION AND PURPOSE:

The C-D, Commercial Development Zone is designed to promote individual and Tribal Enterprise Development to diversify and improve the Reservation economy. The Commercial Development Zone is established to promote efficient and appropriate locations for commercial and related service activities.

SECTION 3.200 ACREAGE-DIMENSIONAL STANDARDS:

1. The Land Protection Planning Commission may deviate from this requirement where it is deemed necessary for the protection of the health, safety and welfare of the residents of the Umatilla Indian Reservation.
2. Lot width: No requirements.
3. Lot depth: 100 feet.
4. The front yard setback shall be a minimum of 10 feet.
5. Side yard none, except when a side lot line is abutting a lot in a Residential zone, and then side yard shall be a minimum of 10 feet.
6. Rear yard, none except when a rear lot line is abutting a lot in a Residential zone and then the rear yard shall be a minimum of 10 feet.
7. Lot coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the total lot area.
8. Off-street parking and loading: Off street parking and loading space shall be provided as required in Section 17.010.
9. Height Regulations: No building or structures shall be hereafter erected, enlarged or structurally altered to exceed a height of 120 feet.

SECTION 3.205 SETBACKS:

Refer to Chapter 17 for additional requirements.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.210 USES PERMITTED:

In a C-D, Commercial Development Zone the following uses and their accessory uses are permitted upon issuance of a Development Permit:

1. Agricultural supply and machinery enterprise, excluding activities which may have hazardous, injurious or offensive noises, vibrations, smoke, dust, odors, heat, glare or other objectionable influences;
2. Automobile and truck repair and service centers;
3. Automobile and truck service stations;
4. Bakeries;
5. Barber or Beauty shops;
6. Business and professional offices;
7. Business, retail, wholesale or service, catering directly to consumer;
8. Dairy products store;
9. Dry cleaning and laundry;
10. Feed and seed and garden supplies;
11. Financial institutions;
12. Frozen food lockers;
13. Gift shop;
14. Grocery;
15. Hardware;
16. Motel or Hotel and associated resort pool or aquatic facility;
17. Greenhouses, commercial;
18. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
19. Net metering facility, solar only, subject to section 17.020 of this Code;
20. Parking lots and multi-level parking garages constructed to serve commercial facilities authorized in this subchapter;
21. Plumbing and sheet metal shops, retail or wholesale;
22. Restaurant or eating establishment;
23. Home occupation;
24. Shoe Repair Shop;
25. Tailoring and dressmaking;
26. Gunsmith;
27. Veterinary or animal hospital;
28. Art galleries, libraries, and reading rooms;
29. Artist supplies and picture framing;
30. Auto parts sales;
31. Bicycle Shop;
32. Book or Stationary Store;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

33. Jewelry Store;
34. Leather goods and luggage;
35. Health and Medical Services;
36. Vocational and job training facilities;
37. Day care and child entertainment facilities;
38. Bowling alley;
39. Multi-tenant retail complex (Mall);
40. Theater and multi-auditorium Cineplex;
41. Casino or gaming facility authorized by the Tribal Gaming Code;
42. RV Parks;
43. Multi-event center for musical, athletic, cultural, business convention and related commercial community or governmental functions;
44. Convention and meeting facilities;
45. Sports bar and lounge facilities authorized under the Tribal Liquor Code;
46. Utility facility;
47. Spa; and
48. Any other use held similar to the above uses, as approved by the Comprehensive Planning Manager.

SECTION 3.215 CONDITIONAL USES PERMITTED:

In a C-D, Commercial Development Zone the following uses and their accessory uses are permitted subject to the requirements of Section 6.010 through 6.035 inclusive and upon issuance of Development Permits:

1. Public use operated by or for the Confederated Tribes of the Umatilla Indian Reservation;
2. Roadside stand for the sale of agricultural products;
3. Caretaker residence;
4. Limited light or hand manufacturing when in conjunction with primarily retail activity not to exceed 25% of total retail floor area;
5. Net metering facility, excluding solar, subject to section 17.020 of this Code.

SUB-CHAPTER I. P-1 -- PUBLIC USE ZONE

SECTION 3.220 DESCRIPTION AND PURPOSE:

The purpose of the P-1, Public Use Zone is to set aside land for educational, recreational, homesites, subsidization for the benefit of the Tribe, or tribal religious organizations or an agency of Federal, State or local governments.

SECTION 3.225 ACREAGE-DIMENSIONAL STANDARDS:

1. The P-1, Public Use Zone acreage and dimensional standards shall be determined by the Commission or Board of Trustees as the case may be.
2. Off-street parking - Off street parking shall be provided as required in Section 17.010.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.230 SETBACKS:

May be imposed by the Commission or Board of Trustees based upon findings which may require such restrictions.

SECTION 3.235 USES PERMITTED:

Within the P-1, Public Use Zone the following uses are allowed subject to the issuance of a Development Permit:

1. Single family/Multi-family dwellings;
2. Governmental Buildings;
3. Government Shop and Garages;
4. Recreational Facilities;
5. Sports Ground and Complexes;
6. Educational Facilities;
7. Cultural Facilities;
8. Utility Facility;
9. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
10. Net metering facility, solar only, subject to section 17.020 of this Code;
11. Parks;
12. Archeological Sites;
13. Duplex;
14. Planned Unit Development, subject to Chapter 7 of this code.

SECTION 3.240 CONDITIONAL USES ALLOWED:

In a P-1, Public Use Zone the following uses are permitted subject to the requirements listed under Sections 6.010 through 6.035 inclusive and upon issuance of a Development Permit.

1. Roadside stand for sale of agricultural products;
2. Special Exceptions;
3. Cemeteries;
4. Greenhouses in excess of 300 square feet;
5. Sanitary Landfills;
6. Net metering facility, excluding solar, subject to section 17.020 of this Code.

SUB-CHAPTER J. P-1 OVERLAY -- U.I.R. PUBLIC USE OVERLAY ZONE

SECTION 3.2410 DESCRIPTION AND PURPOSE:

The purpose of the P-1 Overlay Zone is to support and protect the integrity of the Tamastlikt Cultural Institute of the Umatilla Indian Reservation, and within the context of supporting the Institute, to set aside land for education, recreation, subsidization for the benefit of the Tribe, tribal religious organizations or an agency of Federal, State or local governments.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.2420 ACREAGE-DIMENSIONAL STANDARDS:

The P-1 Overlay Zone acreage and dimensional standards shall be determined by the Commission or Board of Trustees.

SECTION 3.2430 SETBACKS:

May be imposed by the Commission or Board of Trustees based upon findings which may require such restrictions.

SECTION 3.2435 GENERAL STANDARDS:

1. Off-street parking shall be provided as required in Section 17.010;
2. All structures shall be designed, constructed and maintained in a manner which is consistent with the architectural style and enhances the function and aesthetics of the Interpretive Institute.

SECTION 3.2440 USES ALLOWED:

The following uses are allowed without the issuance of a Development Permit:

1. Those items addressed in Chapter 16 of this Code;
2. Temporary commercial activities associated with planned activities organized by the Interpretive Institute.

SECTION 3.2443 USES PERMITTED:

The following uses are subject to the issuance of a Development Permit:

1. Recreational Facilities;
2. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
3. Net metering facility, solar only, subject to section 17.020 of this Code;
4. Sports Ground and Complexes;
5. Educational Facilities;
6. Cultural Facilities;
7. Parks;
8. Archeological Sites.

SECTION 3.2445 CONDITIONAL USES ALLOWED:

In a P-1 Overlay Zone the following uses are permitted subject to the requirements listed under Sections 6.010 through 6.035 inclusive and upon issuance of a Development Permit.

1. Government buildings;
2. Government shop and garages;
3. Special Exceptions;
4. Cemeteries;
5. Utility facility;
6. Net metering facility, excluding solar, subject to section 17.020 of this Code.

SUB-CHAPTER K. F-2 -- RESTRICTED INDIAN FORESTS

SECTION 3.245 DESCRIPTION AND PURPOSE:

The F-2, Restricted Indian Forests Zone is designated to the Tribal trust lands of the Johnson Creek Restoration Area which were added to the Umatilla Indian Reservation by the Johnson Creek Restoration Act of 1939. Lands within this zone are undeveloped and culturally significant. Generally, these lands are utilized and managed for range, timber and other tribal interests.

SECTION 3.250 ACREAGE-DIMENSIONAL STANDARDS:

There shall be a 159 acre minimum lot size.

SECTION 3.255 SETBACKS:

1. No building or structure shall be located closer than 20 feet from a property line, street or road.
2. All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
3. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark.

SECTION 3.260 USES PERMITTED:

In the F-2 zone the following Forest Practices are subject to Section 4.025 and the issuance of a Forest Practices Permit.

- A. Timber removal less than or equal to 5,000 board foot gross; such as, but not limited to:
 1. Pre-commercial thinning;
 2. Road construction/road closures; or
 3. Non-emergency fuel breaks;
- B. Portable saw mill operations;
- C. Chemical applications;
- D. Prescribed Fire;
- E. Destructive Forest research studies involving <5000 board feet.

SECTION 3.265 CONDITIONAL USES PERMITTED:

In the F-2 Zone the following uses and their accessory uses are permitted subject to the requirements listed under Section 6.010 through 6.035 inclusive and upon issuance of a Development Permit or Forest Practices Permit. Accessory structures are not subject to the exceptions found in Section 16.010 of this Code.

1. Timber harvest, timber removal greater than 5,000 board foot gross, subject to Section 4.025 of this Code;
2. Recreational facilities operated by and for the Confederated Tribes of the Umatilla Indian Reservation;
3. Public uses operated by and for the Confederated Tribes of the Umatilla Indian Reservation;
4. Temporary use.

SUB-CHAPTER L. G-1 -- BIG GAME GRAZING FOREST ZONE

SECTION 3.270 DESCRIPTION AND PURPOSE:

The G-1, Big Game Grazing Forest Zone is designated to provide critical range for big game populations. The purpose of this zone is to preserve and maintain habitat for big game and other wildlife. Lands within this zone are largely undeveloped and located at the higher elevations of the Reservation. Generally, these lands are utilized and managed for outdoor recreation, range and timber with very limited development.

SECTION 3.275 ACREAGE-DIMENSIONAL STANDARDS:

There shall be a 159 acre minimum lot size.

SECTION 3.280 SETBACKS:

1. No building or structure shall be located closer than 20 feet from a property line, street or road.
2. All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
3. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark.

SECTION 3.285 USES PERMITTED:

In a G-1 zone the following uses are subject to the issuance of a Development Permit or Forest Practices Permit. Forest Practices are subject to Section 4.025 of this Code.

1. Planned grazing systems;
2. Net metering facility, solar only, subject to section 17.020 of this Code;
3. Range improvements;
4. Forest Practices:
 - A. Timber removal less than or equal to 5,000 board foot gross; such as but not limited to:
 1. Pre-commercial thinning;
 2. Road construction/road closures; or
 3. Non-emergency fuel breaks;
 - B. Portable saw mill operations;
 - C. Chemical applications;
 - D. Prescribed Fire;
 - E. Destructive Forest research studies involving <5000 board feet.

SECTION 3.290 CONDITIONAL USES PERMITTED:

In a G-1 Big Game Grazing Forest Zone the following uses and structures accessory to permitted uses are permitted subject to the requirements listed under Sections 4.025 and 6.010 through 6.035 inclusive and upon issuance of a Development Permit or Forest Practices Permit. Accessory structures are not subject to the exceptions found in Section 16.010 of this Code.

1. Timber harvest, timber removal greater than 5,000 board foot gross, subject to Section 4.025 of this Code;
2. Fish and Wildlife projects, research or buildings related thereto;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

3. Recreational facilities operated by and for the Umatilla Confederated Tribes;
4. Public or Semi-public use operated by and for the Confederated Tribes;
5. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
6. Net metering facility, excluding solar, subject to section 17.020 of this Code;
7. Soil and water conservation projects;
8. Temporary use;
9. Single family dwellings, including manufactured housing.

SUB-CHAPTER M. FHO -- FLOOD HAZARD OVERLAY ZONE

SECTION 3.294 GENERAL INFORMATION:

The flood hazard areas of the Umatilla Indian Reservation are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of changes in stream morphology, bedload (size, density, roughness of material), slope and related sinuosity of the stream, and in changes in carrying capacity of the stream due to the placement of fill material or other development in areas of special flood hazards, which increase flood heights and velocities, and when structures and materials are inadequately anchored, damage uses and properties in other areas. Uses that are placed in harm's way, inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

SECTION 3.295 PURPOSE:

The purpose of the Flood Hazard Overlay Zone is to promote and protect the public health, safety and general welfare, to protect soils, water quality, and quantity, to maintain and improve fish and wildlife habitat and minimize public and private flood losses due to flood, mudflow or flood-related erosion by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood, mudslide and flood-related erosion hazards or which cause increased susceptibility to damage from these events;
2. Require that uses vulnerable to floods, mudslide and flood-related erosion hazards, including public facilities which serve such uses, locate or install such facilities as may be necessary for flood protection at the time of initial construction;
3. Ensure that potential buyers are notified when property is in a Special Flood Hazard Area;
4. Minimize the expenditure of public money for costly flood control projects;
5. Minimize the need for rescue and relief efforts associated with flooding, mudslide and flood-related erosion hazards and generally undertaken at the expense of the general public;
6. Minimize interruptions to commerce;
7. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines as well as streets and bridges located in a Special Flood Hazard Area;
8. Ensure that those who occupy the Special Flood Hazard Areas assume responsibility for their actions;
9. Protect Tribal resources;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

10. Afford citizens and residents of the Umatilla Indian Reservation the opportunity to obtain flood insurance through the National Flood Insurance Program by ensuring compliance with 44 CFR 60, Requirements for Flood Plain Management Regulations; and
11. Minimize pain and suffering resulting from flooding and its aftermath.

SECTION 3.300 COMPLIANCE:

A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used in a Flood Hazard Overlay Zone only as these overlay standards permit or allow (*see* Chapter 15, Enforcement Procedures).

SECTION 3.305 LOCATION OF FLOOD HAZARD OVERLAY ZONE:

1. The Flood Hazard Overlay Zone shall be the Special Flood Hazard Areas as identified by the Federal Insurance Administration in the “Flood Insurance Study for Umatilla County Oregon and Incorporated Areas” dated September 3, 2010, a scientific and engineering report which includes the Umatilla Indian Reservation, as may be amended from time to time, with the accompanying Flood Insurance Rate Maps (FIRMs), also as may be amended and adopted by the Board of Trustees. The FIRMs and Flood Insurance Study (FIS) shall be available for review at the Tribal Planning Office.
2. Where base flood elevation (BFE) data has not been provided in accordance with Subsection 1 of this Section the Comprehensive Planning Manager shall obtain, review and reasonably utilize any flood elevation data available from a federal, state or other source in order to administer development and uses within potential special flood hazard areas. If no base data exists, the Development Permit applications shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made through the use of historical data, high-water marks, photographs of past flooding, etc., where available.

SECTION 3.306 FLOODWAYS:

1. Fill, substantial improvements, and other development shall be prohibited unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge and that there is a substantial public need.
2. If the preceding subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this subchapter.

SECTION 3.307 BEFORE FLOODWAY:

In areas where a floodway has not been designated, no fill, new construction, substantial improvements, or other development shall be permitted within Zones AE unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood by more than one tenth of a foot at any point within the community.

SECTION 3.315 LIMITATIONS ON ALL USES:

No structural fill (temporary or permanent), including fill for roads, levees, deposits, obstructions, storage of materials or equipment, or other uses shall be permitted in a Special Flood Hazard Area, which acting alone or in combination with existing or future uses affects the efficiency or capacity of the floodway or increases flood heights.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.320 LIMITATIONS ON FILL:

1. Any fill proposed to be deposited in a Special Flood Hazard Area must have a substantial beneficial purpose as allowed and permitted by this Code and the amount must not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted according to section 3.335, "Procedure," found in this subchapter.
2. Such fill or other material shall be protected against erosion by rip-rap, vegetative cover or bulkheading sufficient to withstand hydraulic forces of a high water event one foot above a Base Flood. Such protection shall be established with pre-construction drawings with an engineers stamp and statement verifying the design for this purpose.
3. Fill material shall not contain solid waste materials or contaminants. Fill shall be limited to rock, sand, gravel and soil to the extent necessary to establish vegetation for the purpose of preventing erosion and retaining fill material on site.
4. If fill is placed in a floodway, Section 3.306 must be satisfied to demonstrate the encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 3.325 LIMITATIONS ON STRUCTURES:

1. Land partition or subdivision lots intended as a site for a structure for human occupancy shall contain a building site and access road with a ground level elevation no lower than one foot above the elevation of a Base Flood; be accessible to a roadway, no portion of which is less than one foot above the elevation of a Base Flood; replacement of water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and any on-site waste disposal systems existing or permitted shall be located to avoid impairment to them or contamination from them during flooding. Where Base Flood elevations do not exist, Base Flood elevation data shall be provided by the applicant for subdivision and land partition proposals or other proposed developments in a Special Flood Hazard Area.
2. A permitted structure in a Special Flood Hazard Area shall be constructed and placed on the building site to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Anchoring: All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
4. Construction Materials and Methods:
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.
5. Utilities:
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 3.326 RESIDENTIAL STRUCTURES:

- 1. New construction or substantial improvement of any residential structure shall have the lowest support structure, beam or joist, including basement floor, elevated at least 12 inches (one foot) above the base flood elevation.
- 2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect, or must meet the following minimum criteria:
 - a. A minimum of two openings having an area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- 3. No residential structure shall be placed within a Special Flood Hazard Area designated as a floodway.

SECTION 3.327 MANUFACTURED STRUCTURES:

- 1. All manufactured structures to be placed or substantially improved shall be elevated on a permanent foundation, reinforced piers or a combination of the two so that the bottom of the longitudinal chassis frame is at least 12 inches (one foot) above the Base Flood Elevation, is securely anchored to an adequately designed foundation system to resist floatation, collapse and lateral movement, and shall be installed using methods and practices which minimize flood damage. Methods of anchoring may include but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to other anchoring requirements for resisting wind forces.
- 2. For existing manufactured home parks and for manufactured structures not placed in a manufactured home park where the cost estimate or actual contract costs, whichever is greater, for repairs, reconstruction, or improvements of the streets, utilities and pads equals or exceeds fifty (50%) percent of the value of the streets, utilities and pads to be repaired, reconstructed or improved:
 - a. Pads or lots shall be elevated on compacted fill at least one foot above the Base Flood elevation;
 - b. Access for a hauler shall be provided;
 - c. In the instance of elevation on pilings:
 - i. Piling foundations shall be placed in stable soil no more than ten feet apart;
 - ii. Reinforcement adequate to resist hydrostatic loads shall be provided for pilings more than six feet above the ground level; and

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- iii. i and ii above shall be designed to withstand water, wind, mudflow and flood related erosion as evidenced by drawings and an engineer's stamp verifying the durability of the pilings to withstand projected forces on the foundation and utility connections.
- d. No manufactured structure shall be placed within a Special Flood Hazard Area designated as a floodway.

SECTION 3.328 NONRESIDENTIAL CONSTRUCTION:

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor elevation 12 inches (one foot) above Base Flood Elevation as measured from the concrete pad or bottom of the floor joists or floor insulation, whichever provides the greatest elevation; or together with attendant utility and sanitary facilities shall;

1. Be floodproofed so that below one foot above the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Comprehensive Planning Manager as set forth in Section 3.335(1)(g)(ii).
4. Nonresidential structures that are elevated and not floodproofed must meet the same standards for space below the lowest floor as described in Section 3.326(2).
5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on one foot below the floodproofed level.

SECTION 3.329 RECREATIONAL VEHICLES:

Recreational vehicles placed on sites are required to:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; and
3. Be removed from the flood hazard area during periods of forecast high water or actual high water events.

SECTION 3.330 LIMITATIONS ON STORAGE OF MATERIAL AND EQUIPMENT:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

1. The storage or processing of materials that are buoyant, flammable, explosive or that could be injurious to human, animal or plant life in time of flooding is prohibited in a Special Flood Hazard Area.
2. Storage of other material or equipment may be allowed in a Special Flood Hazard Area if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the limited time available after flood warning. If material or equipment is stored with the intent to be removed from the Special Flood Hazard Area during a flood warning or actual flood event, the owner of the land shall establish a removal plan indicating what and how the material or equipment is to be removed, and the location where the material will be moved. The owner shall also have available at all times the capacity to carry out the removal plan. The plan shall be available for inspection by the Comprehensive Planning Manager and the owner shall be able to demonstrate the adequacy of the plan. Plans found by the Comprehensive Planning Manager to be inadequate shall be revised to meet this standard or the material and equipment shall be removed from the Special Flood Hazard area within 30 days of the finding of inadequacy and a subsequent removal order.

SECTION 3.332 SUBDIVISION PROPOSALS:

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals.
5. Subdivisions shall not be allowed in the floodway.

SECTION 3.333 WATER DEPENDENT USES AND STRUCTURES:

Water dependent uses and structures shall be conditional uses. Such uses may include fish acclimation facilities, water control structures, water gathering and piping structures, treated water/wastewater outflow structures, and any other use or structure that may require placement in the Special Flood Hazard Area due to its unique water dependent nature.

SECTION 3.334 CRITICAL FACILITIES:

Construction of new critical facilities shall be located outside of the Special Flood Hazard Area (SFHA) (100 year floodplain).

SECTION 3.335 PROCEDURE:

In a Special Flood Hazard Area, a lot may be developed or used only after the following requirements have been met and upon issuance of a Development Permit by the Tribal Planning Office (including manufactured homes):

1. An applicant shall submit with an application for a Development Permit sufficient evidence to indicate that the lowest floor elevation of a structure designed part of the structure will be at least one foot above Base Flood Elevation (BFE) as measured from the concrete pad or bottom of the floor joists or floor insulation, whichever provides the greatest elevation. A Development Permit is also required for all development as defined in this Code, including the placement of manufactured homes. This evidence shall include sketches showing:
 - a) The nature, location, dimensions and elevation of the lot, and its location in relation to the Floodway and the Special Flood Hazard Area;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- b) Development plan showing existing and proposed elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site, location and elevation of streets and all existing and proposed underground facilities;
 - c) A typical valley cross-section showing the channel, of the stream, elevation of land areas adjoining each side of the channel, cross sections of areas to be occupied by the proposed development, and high-water information if appropriate, as determined by the Comprehensive Planning Manager;
 - d) Profile showing the slope of the bottom of the channel of flow line of the stream for a distance of not more than 0.5 miles up or down stream, if appropriate, as determined by the Comprehensive Planning Manager (this may be required especially for proposed development where the river is eroding near a cutbank or the river exhibits some other morphologic or hydrologic instability);
 - e) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvements, storage of materials, water supply and sanitation facilities;
 - f) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including the basement) of all new or substantially improved structures, and whether or not the structure contains a basement and all other information required on the most current version of the Federal Emergency Management Agency Elevation Certificate, FEMA Form 81-31;
 - g) For all new or substantially improved flood proofed structures:
 - i) Verify and record the actual elevation (in relation to mean seal level) to which the structure was floodproofed;
 - ii) Maintain the flood proofing certifications.
2. An applicant shall submit with the application for a permit sufficient evidence concerning his construction methods and materials to indicate that minimum flood damage will occur in the event of inundation. This evidence shall be sufficient to indicate that:
- a) Proposed repairs and renovations will use materials and equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage;
 - b) New construction, including manufactured structures will be protected against flood damage, will be designed or modified and anchored to prevent flotation, collapse and lateral movement of the structure, will use materials and equipment that are resistant to flood damage, and will use construction methods and practices that will minimize flood damage.
3. All applications shall be reviewed to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

SECTION 3.336 STANDARDS FOR SHALLOW FLOODING AREAS (AO) ZONES:

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas the following provisions apply:

- 1. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor, including a basement, elevated above the highest grade adjacent to the building, 12 inches or more above the depth number specified on the FIRM (at least 24

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

inches if no depth is specified). Manufactured homes shall have the bottom of the longitudinal chassis frame elevated above the highest adjacent grade 12 inches or more above the depth number specified on the FIRM (at least 24 inches if no depth is specified).

2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a. Have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, 12 inches or more above the depth number specified on the FIRM; or
 - b. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 3.328(3); and shall
 - c. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

3. Recreational vehicles placed in sites within AO zones on the FIRM shall
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only be quick disconnect type utilities and security devices, and have no permanently attached additions; and
 - c. Recreational vehicles are to be removed from the flood hazard area during periods of forecast high water or actual high water events.

SECTION 3.340 DESTRUCTION OF NONCONFORMING USE OR STRUCTURES:

If a non-conforming use or structure in a Special Flood Hazard Area is destroyed by any means, restoration, repair or replacement shall comply with the standards of this subchapter.

SUB-CHAPTER N. P-2 -- PUBLIC FACILITIES ZONE

SECTION 3.400 DESCRIPTION AND PURPOSE:

The Public Facilities Zone is intended to provide lands within which a variety of public-service or semi-public activities may be conducted without interference from inappropriate levels of residential, commercial or industrial activities. The P-2 Zone provides lands for use by governmental and other non-profit organizations that provide services which are inherently intensive or unusual uses not normally associated with other zones.

SECTION 3.405 PROPERTY DEVELOPMENT STANDARDS:

1. Size:
 - a) Minimum lot size shall be one acre for uses requiring sewage disposal in areas not served by a community sanitary sewer system.
 - b) In areas where a use is served by a community sanitary sewer system, lots or parcels may have a minimum area of 15,000 square feet.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- c) In areas where a use is served by both a community water supply system and a community sanitary sewer system, the minimum lot or parcel area may be 7,500 square feet.
 - d) For uses not requiring sewage disposal or water supply the minimum lot or parcel size should be appropriate to the proposed use.
- 2. Lot Coverage - Not over 60 percent of the lot shall be covered by all structures and impervious surfaces located thereon.
 - 3. Height - Maximum height for all structures shall be 35 feet, except hospitals or churches which may be 45 feet in height.
 - 4. Parking - Off street parking shall be provided in accordance with Section 17.010 Off Street Parking of this code.

SECTION 3.410 SETBACKS:

- 1. Front Yard: No structure shall be located closer than 20 feet from the front property line.
- 2. Side Yard: No structure shall be located closer than 15 feet from side property lines for interior lots, and 20 feet from exterior side property lines for corner building sites.
- 3. All structures, buildings, or permanent fixtures shall be set back from the high-water line along all streams or lakes a minimum distance of 100 feet measured at right angles to the high-water line or mark.

SECTION 3.415 PERMITTED USES:

In the P-2 zone, the following uses and their accessory structures and uses are permitted, subject to the provisions and exceptions set forth by this Code:

- 1. Farm uses;
- 2. Post office;
- 3. Day care centers;
- 4. Churches and associated structures, such as a parsonage and meeting hall;
- 5. Parks and playgrounds;
- 6. Grange hall and facilities for civic and fraternal associations;
- 7. Fire prevention, detection and suppression facilities;
- 8. Police station and emergency service facilities;
- 9. Welfare and charitable services;
- 10. Health services facilities;
- 11. Caretaker's residence;
- 12. Structures associated with the collection of research data, including but not limited to: anemometers, air quality monitors and structures housing fish and wildlife research equipment;
- 13. Net metering facility, solar only, subject to section 17.020 of this Code.

SECTION 3.420 CONDITIONAL USES PERMITTED:

In a P-2, Public Facilities Zone the following uses and their accessory uses are permitted subject to the requirements listed under Section 6.010 through 6.035 inclusive and upon issuance of a Development Permit.

- 1. Cemeteries;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

2. Fairgrounds;
3. Solid waste disposal facilities;
4. Sewage treatment facilities (not including individual septic tank/drainfield systems);
5. Water treatment facilities;
6. Arenas and sports stadiums;
7. Schools, including special training schools;
8. Utility facility;
9. Radio and television stations;
10. Net metering facility, excluding solar, subject to section 17.020 of this Code.

SUB-CHAPTER O. CR-1 -- COMMUNITY RESIDENTIAL ZONE

SECTION 3.425. DESCRIPTION AND PURPOSE

The CR-1 -- Community Residential Zone is intended to promote areas for community suburban residential development that connect to community water and sewer services where those services are available consistent with the policies of the Mission Community Plan. This zone is intended to create residential neighborhoods for public and private housing.

SECTION 3.430. ACREAGE DIMENSIONAL STANDARDS.

1. 10,000 square feet minimum lot size for the CR-1 -- Community Residential Zone.
2. Minimum dimension for lots created in this zone is 70 feet.
3. No building or structure shall be hereafter erected, enlarged, or structurally altered to exceed 30 feet in height.

SECTION 3.435. SETBACKS.

1. No building or structure shall be located closer than 20 feet from a front property line or street or road.
2. Side yard: A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet as measured from the lot side line.
3. Rear yard: The rear yard shall be a minimum of 20 feet as measured from the rear lot line.

SECTION 3.440. REQUIREMENTS FOR USE.

1. All new residential development in a CR-1 -- Community Residential Zone shall connect to the existing Tribal water and sewer systems.
2. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
3. Utility and access easements will be provided and improved commensurate with the type and level of development.
4. Access to building sites must be suitably improved to serve emergency vehicles.
5. All new structures must be within 500 feet of a fire hydrant unless approved otherwise by the Fire Chief.
6. Maintenance and operations agreements must be recorded with new lots having shared access, services and facilities.
7. Exterior lighting will be provided, where needed by the property owner.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 3.445. USES PERMITTED.

1. Dwelling, single family, and accessory uses;
2. Net metering facility, solar only, subject to section 17.020 of this Code;
3. Manufactured housing including single-wide, double wide and larger, single family, and accessory uses;
4. Accessory buildings and normal accessory uses including but not limited to;
 - a. Garage;
 - b. Shop.
5. Public or semi-public use owned or operated by the Confederated Tribes of the Umatilla Indian Reservation;
6. Utility lines and facilities for service to the residents of the zone or an adjacent zone;
7. Temporary uses;
8. Duplexes may be established on lots having a minimum area of 15,000 square feet;
9. Boarding, lodging, or rooming houses, including a bed and breakfast facility;
10. Parks and playgrounds;
11. Home occupations (subject to Section 17.01 (F)).

SECTION 3.450. CONDITIONAL USES.

In an CR-1 -- Community Residential Zone, the following uses and their accessory uses are permitted, subject to the requirements of Section 6.01 through 6.06 inclusive and upon issuance of a Development Permit.

1. Manufactured Home Park;
2. Churches;
3. Triplexes and fourplexes. Each lot shall have a minimum of 10,000 square feet for the first dwelling unit and an additional 5,000 square feet for each additional unit thereafter;
4. Utility facility;
5. Net metering facility, excluding solar, subject to section 17.020 of this Code.

CHAPTER 4. SUPPLEMENTARY MANUALS AND PLANNING ACTIVITIES

SECTION 4.000 DESCRIPTION AND PURPOSE:

The purpose of this section is to coordinate the planning and regulatory aspects of Tribal, Federal, State, and Local Governmental Agencies, districts and sub-districts. Planning activities shall address matters for conservation and enhancement of all natural resources on the Umatilla Indian Reservation and within the region as the case may be.

The Land Protection Planning Commission shall be charged with holding public hearings, fact finding, reporting and making recommendation concerning issues covered under this code to the Board of Trustees. In addition the Land Protection Planning Commission shall submit to the Board of Trustees information and recommendations regarding areas of unmet needs, projects, and research activities related to the subject matter of this code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 4.005 BUILDING CODES:

All buildings and facilities constructed on the Umatilla Indian Reservation and on off reservation trust lands owned by CTUIR shall comply with the latest edition of the following codes and standards, including any amendments thereto:

1. Building Codes:
 - a. International Building Code;
 - b. International Fire Code;
 - c. International Plumbing Code;
 - d. International Mechanical Code;
 - e. National Electric Code;
 - f. International Residential Code;
 - g. Oregon Manufactured Dwelling and Park Specialty Code;
 - h. Oregon Department of Energy Conservation Code;
 - i. NFPA National Fire Sprinkler Code;
 - j. National Fire and Safety Code; and
 - k. International Fuel Gas Code.

2. Tribal Supplement to the International Building Code:
 - a. Wind standard: 105 mph 3 second gust, wind speed 90mph; exposure B or C
 - b. Snow load standard: 25 pounds per square foot for roof
 - c. Frost depth standard: 24 inches
 - d. Earthquake design data shall be shown as indicated in *Sec. 1603.1.5 IBC*.
 - e. Building envelopes, heating and cooling ducts shall meet the requirements of the Oregon Department of Energy Conservation Code. The reservation land is in Climate Zone 2.
 - f. Parking spaces shall be constructed to the Oregon Department of Transportation Disabled Parking Standards.
 - g. Mobile homes shall be set up and installed to the requirements of the current Oregon Manufactured Dwelling and Parks Specialty Code.
 - h. In residential dwellings constructed under the International Residential Code, Automatic Fire Sprinkler Systems (IRC Section R313) shall not be required.

Any amendments to the above referenced codes and standards shall also be effective on the Umatilla Indian Reservation. In the event any provisions of this Code are at variance with the above referenced codes, the provisions and conditions of this Code shall be superior thereto and govern.

SECTION 4.010 SEWAGE DISPOSAL:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Fee lands requiring sewage disposal systems will be regulated by the Environmental Health Code of the Confederated Tribes of the Umatilla Indian Reservation.

SECTION 4.015 DOMESTIC WATER SYSTEM:

Water wells shall be constructed and maintained in accordance with the Water Code of the Confederated Tribes of the Umatilla Indian Reservation, as amended.

SECTION 4.020 SUBDIVISIONS:

Subdivisions, Minor Partitions, Major Partitions and Planned Unit Developments shall comply with the Land Development Code entitled "Subdivision Manual" hereby adopted.

SECTION 4.025 FOREST PRACTICES:

All Forest Practices, including but not limited to timber harvests and forest practices subject to a permit exemption under section 16.050 of this Code, shall be planned and executed within the external boundaries of the Umatilla Indian Reservation consistently with the current CTUIR Forest Management Plan, as approved by the Board of Trustees, and any other applicable Tribal statutes and policies.

Forest Practices proposed to occur on multiple lots under the same ownership and/or control may be considered a single action for the purpose of determining the volume of timber involved and whether a Forest Practices Permit or Conditional Use approval is required.

SECTION 4.030 RANGE PLANNING AND DEVELOPMENT:

The Land Protection Planning Commission shall hold hearings, review, and/or develop plans and policies for adoption by the Board of Trustees relating to:

1. Permitting of grazing privileges to Tribal members without competitive bidding where only Tribal property is proposed for permitting;
2. Criteria for granting of grazing privileges to Tribal members without competitive bidding;
3. Allocation of forage between livestock, horses and big game;
4. Review and provide recommendations for range improvement, grazing systems and best management practices.

SECTION 4.035 AGRICULTURE:

The Land Protection Planning Commission shall review and provide recommendations to the Board of Trustees regarding needs and priorities for conservation and other management practices needed within the following watersheds:

1. Wildhorse Creek 21,836 Acres
2. Mid-Umatilla River 59,680 Acres
3. Tutuilla Creek 20,836 Acres
4. McKay Creek 74,076 Acres
5. Grande Ronde River 4,400 Acres

Recommendations shall be developed utilizing approved practices and standards for:

1. Noxious Weed Control
2. Strip Cropping
3. Chiseling and subsoiling

STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)

4. Conservation Cropping Systems
5. Contour Farming
6. Critical Area Planting (eroded steambanks/mined areas)
7. Crop residue use
8. Multi-purpose dam
9. Diversion
10. Grade stabilization structures
11. Grassed Waterways
12. Irrigation Systems:
 - a) Drip
 - b) Sprinkler
 - c) Surface/Subsurface
 - d) Flood Irrigation
13. Irrigation water management
14. Livestock exclusion
15. Minimum tillage
16. Mulching
17. Pasture and hayland planting
18. Terraces
19. Windbreaks
20. Cover crops

Needed conservation practices shall be documented, prioritized and prepared for adoption by the Board of Trustees through the Land Protection Planning Commission.

SECTION 4.040 *[Reserved]*

SECTION 4.045 **MINING, QUARRYING, OR OTHER EXTRACTING ACTIVITY;
POLICIES:**

1. In order that there is up-to-date information upon which to make informed decisions about local mineral and aggregate resources, an on-going study of the quality, location, quantity and type of mineral and aggregate resources on the Reservation should be a responsibility of the Tribal Planning Office and the Bureau of Indian Affairs.
2. Surface mining sites and that have approved site plans and are actively being utilized at the time of plan adoption should be zoned Surface Mining (SM) to permit continued operation. However, inactive and undeveloped sites should be designated Surface Mining Reserve (SMR) so that these sites will be protected for future use when the resource materials are needed. This protection must include review of developments on adjoining land and proposed fish enhancement programs to assure compatibility. Operating sites are those which extract 50 or more cubic yards of material within twelve consecutive months.
3. Changes from a Surface Mining Reserve (SMR) Zone to a Surface Mining (SM) or River Extraction (RE) Zone shall occur upon findings by the Comprehensive Planning Manager that:
 - a) The site is needed for the ten to twenty year resource requirements of the Reservation.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- b) This site is in the closest proximity to the utilization area, or is otherwise the most economical available, at the time. Some withholding of materials by resource owners could require additional area being designated.
- c) The public interest is best served by the proposed change.

The operator applicant must also obtain approval of a site and reclamation plan, including a phased use and rehabilitation schedule, for the area to be mined. The site and rehabilitation plan shall return the site to a useful condition and decrease visual and environmental impact of the operation to the extent reasonably possible. This plan must be approved, in writing, by the Comprehensive Planning Manager. In cases where the applicant is applying for a zone change, a site and reclamation plan shall be submitted in conjunction with the zone change request. Unless utilization of the site begins within two years, the approval of the site and reclamation plan shall expire.

- 4. In the approval of mining operations, the site shall be first utilized for archeological excavation, timber harvesting or other first-use activities and other nonrenewable resource conflicts resolved (i.e., historical sites), before mining begins.
- 5. Once mining and/or associated activities (i.e., rock crushing) have begun they shall be in accordance with state standards and any more stringent standards that the Comprehensive Planning Manager or designee may impose. Further, in areas such as forestry, residential, agricultural, wildlife sensitive area (i.e., nest sites), intensive recreational or other particularly sensitive areas, the mining and associated operations shall be subject to more restrictive standards to keep noise, dust, erosion and other hazards to a level compatible with the adjacent uses. Such standards may include requirements for barrier isolation, setbacks, operating times, concomitant reclamation, limits to active mining area, mining lifetime, water quality and restrictions on on-site processing.
- 6. Although mining should be considered a temporary land use (interim and second uses such as recreation should be designated in the SM zone), it is important that the resource sites be protected from incompatible development. To reduce this problem timely utilization of the product shall be encouraged.
- 7. Extraction of mineral and aggregate resources by private landowners for non-commercial use shall conform to the same environmental considerations as commercial operations. The intent of the regulations is to protect the surrounding area not to preclude such operations. Such use shall be a conditional use unless the deposit possesses SM zoning.
- 8. Mining within wilderness and roadless areas, watersheds, fish and wildlife habitats and recreation areas is prohibited unless an overwhelming public need can be demonstrated and all other alternatives have been exhausted.

SECTION 4.046 CRITERIA AND STANDARDS FOR MINING ZONES

- 1. The setback of the perimeter of the mining area (quarry) from the boundary of a surface mining zone shall be at least 20 feet.
- 2. The toe of an excavated slope shall be setback at least 20 feet from the borrow ditch of any public road.
- 3. Any excavation or stockpile shall be situated such that loose material (e.g., soil, rock, etc.) cannot sluff onto a public road or its borrow ditches or any surface water drainway.
- 4. No wall of a surface mine shall have a vertical rise exceeding 20 feet. A wall is defined to be any excavated slope steeper than 1.5:1 (horizontal to vertical) with a vertical rise of more than 5 feet. A horizontal bench at least 10 feet wide shall be installed at the base of each wall.

CHAPTER 5. NON-CONFORMING USES

Within the Zones established by this Code or Amendments that may later be adopted, there exists lots, structures and uses of land which were lawful before this code was adopted or amended, but

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

which would be prohibited, regulated or restricted under the terms of this code and subsequent amendments to it. It is the further intent of this code to permit these non-conformities to continue until they are removed, but not to encourage their expansion. Such uses are declared by this code to be incompatible with permitted uses in the zones involved.

SECTION 5.010 NON-CONFORMING LOTS OF RECORD:

1. Any parcel of land or portion thereof which is to be dedicated to a public or semi-public entity for a road, canal, railroad, utility or other public use shall be exempt from the minimum lot size requirements set forth by this Code.
2. Any lot which is smaller than the minimum area required in any zone may be occupied by an allowed use in that zone provided that:
 - a) The lot was a lot in a duly platted and recorded subdivision on or before the date of this Code, or was a parcel created by an approved land partitioning prior to such date.
 - b) The use conforms to all other requirements of that zone.
 - c) If there is an area deficiency, residential use shall be limited to a single dwelling unit.
 - d) Approval of the Department of Environmental Quality is obtained as applicable.

SECTION 5.020 NON-CONFORMING USES OF LAND:

Where at the effective date of the adoption of this Code or Amendment thereto, a lawful use of land exists that is made no longer permissible under the terms of this Code or Amendments thereto, such use may continue so long as it remains lawful and subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land.
2. No such non-conformities shall be moved in whole or in part to any position of the lot or parcel occupied by such use at the time of adoption of this Code or Amendment thereto.
3. If any such non-conforming use of land ceases for any reason for a period of more than six months any subsequent use of such land shall conform to the standards specified by the zone in which it is located.
4. All existing mining operations are hereby declared non-conforming uses and are exempt from Section 5.020 (1-3). All non-conforming mining operations will be processed in accordance with Section 4.045.

SECTION 5.030 NON-CONFORMING STRUCTURES:

Where lawful structure or structures exist at the effective date of the adoption of this Code or Amendment thereto, such structure or structures may be continued so long as it remains lawful and subject to the following provisions:

1. No structure or structures may be enlarged or altered in any way which increases its non-conformity.
2. Should any structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Code. If a structure located in a Special Flood Hazard Area has damage by any origin whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, it shall not be reconstructed except in conformity with the provisions of this Code.
3. Should any structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the zone in which it is located.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 5.040 NON-CONFORMING USES OF STRUCTURE AND LAND:

If a lawful structure and land in combination exists at the effective date of Adoption or Amendment of this Code that could not be built under the terms of this Code, it may remain so long as it is otherwise lawful and subject to the procedures:

1. A non-conforming use of land structures shall not be altered, enlarged, extended, constructed, reconstructed, moved or substantially altered in any way except to change use of the structure to a use permitted in zone in which it is located.
2. If no structural alterations are made, any non-conforming use of a structure may be changed to another non-conforming use provided that the Board of Trustees or the Land Protection Planning Commission may by ruling or by findings in the specific case, that the proposed change is equally or more appropriate. In permitting such change the Commission or Board may require appropriate conditions or safeguards in accordance with the provisions of this Code.
3. Any non-conforming use may be extended throughout any parts of a building which were arranged and designed for that use at the time of adoption of this Code, however, the use shall not be allowed to extend to other neighboring properties.

All non-conforming uses shall be registered as such with the Tribal Planning Office within six months of the effective date of this Code. Any non-conforming uses claimed after this period must show proof and obtain acknowledgement as such from the Land Protection Planning Commission.

CHAPTER 6. CONDITIONAL USES

SECTION 6.010 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES:

Conditional uses listed in this Code, may be permitted, enlarged or altered upon authorization by the Land Protection Planning Commission in accordance with the standards and procedures set forth in this chapter.

1. In permitting a new conditional use or the alteration of an existing conditional use, the Land Protection Planning Commission may impose additional conditions which the Commission considers necessary to protect the best interests of the surrounding property or the Umatilla Reservation as a whole.
2. In the case of a use existing prior to the effective date of this Code and classified in this Code as a conditional use, any change in use or lot area or an alteration of structure shall conform with the requirements for a conditional use.
3. The Land Protection Planning Commission may require an applicant to furnish a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and conditions attached in granting a conditional use.

SECTION 6.015 CIRCUMSTANCES FOR GRANTING A CONDITIONAL USE:

1. That the locations, size, design, and operations characteristics of the proposed use are such that it will have minimal adverse impact on the property value, livability, and permissible development of the surrounding area. Consideration shall be given to compatibility in terms of scale, coverage, and density, to the alteration of traffic patterns and the capacity of surrounding streets and roads, and to any other relevant impact of the proposed use.
2. That the site planning of the proposed use will, as far as reasonably possible, provide an aesthetically pleasing and functional environment to the highest degree consistent with the nature of the use and the given setting.
3. If the use is permitted outright in another zone, that there is substantial reason for locating the use in an area where it is only conditionally allowed, as opposed to an area where it is permitted outright.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

4. That the proposed use will be consistent with the purposes of this Code, the Comprehensive Plan, and any other statutes, codes or policies that may be applicable, and will support rather than interfere with the uses permitted outright in the zone in which it is located.

SECTION 6.020 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE:

The procedure for taking action on a conditional use application shall be as follows:

1. A property owner or the Land Protection Planning Commission may initiate a request for a conditional use or the modification of a conditional use by filing an application with the Comprehensive Planning Manager.
2. The Comprehensive Planning Manager or the Land Protection Planning Commission may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties.
3. Within 45 days of receipt of the application, the Land Protection Planning Commission shall hold a public hearing and render a decision thereon. The applicant shall be given written notice of the decision by the Comprehensive Planning Manager within five (5) days of the decision.
4. A conditional use shall not be approved unless the proposed use would be in compliance with the Umatilla Reservation Comprehensive Plan.
5. An applicant granted a conditional use must also obtain a Development Permit or other specified permit related to the approval prior to commencing development.

SECTION 6.025 TIME LIMIT ON A CONDITIONAL USE :

A conditional use shall be void after one year or such lesser time as the permit may specify unless substantial development pursuant thereto has taken place. However, the Land Protection Planning Commission may extend authorization for an additional period not to exceed one year, upon request.

SECTION 6.030 TIME LIMIT ON REAPPLICATION:

No application for a conditional use shall be considered by the Land Protection Planning Commission within one year of the denial of such a request, unless in the opinion of the Commission new evidence or a change of circumstances warrant it.

SECTION 6.035 SUGGESTED STANDARDS GOVERNING CONDITIONAL USES:

In addition to the standards of the zone in which the conditional use is located and the general standards of this Code, the Land Protection Planning Commission shall consider the following additional requirements:

1. Conditional Uses generally:
 - a) Yards:

Yards may be at least two-thirds the height of the principal structure. Additional yard requirements may be imposed.
 - b) Limitations on access to property and on openings to buildings:

In a R-1, I-D, FHO, P-D and C-D zone, the Land Protection Planning Commission may limit or prohibit vehicle access to a conditional use and it may limit or prohibit building openings within 50 feet of residential property if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

CHAPTER 7. P.U.D. PLANNED UNIT DEVELOPMENT

SECTION 7.100 DESCRIPTION AND PURPOSE:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

The purpose of this section is to provide an opportunity for land owners to create lots for homesites on reservation lands with fractionated heirships. Through this process, Indian families are encouraged to promote family P.U.D.s, wherein family bonds and culture are strengthened.

The P.U.D. is intended to encourage clustered housing development on allotments and trust properties that are sufficiently large enough to allow comprehensive site planning for individual allottees, their extended families, the tribal housing authority and for individuals wishing to plan estates; and make possible greater variety and diversification in the relationship between buildings and open spaces. Because of land ownership and management problems associated with Federal Government management and control of trust lands and fractionated heirships, flexibility is needed to plan for many trust allotments or otherwise attain the purpose, policy, goals and objectives of the Umatilla Tribal Comprehensive Plan.

It is not intended that the P.U.D. be utilized as a tool for subdividing or partitioning lands for sale on the real estate market. While it is recognized that lands will, from time to time, be traded or sold, the primary function of the P.U.D. on the Umatilla Indian Reservation shall be to facilitate the basis for which the Umatilla Indian Reservation was created: to provide a homeland and homes for members of the Confederated Tribes of the Umatilla Indian Reservation.

SECTION 7.200 TYPES OF PLANNED UNIT DEVELOPMENTS:

1. P.U.D. partition - Creates three (3) or less housing development lots. Sketch plan review and approval is administrative. Final Plat approval is administrative in accordance with the Tentative Plan Order of the Land Protection Planning Commission.
2. P.U.D. subdivision - Creates four (4) or more housing development lots. Sketch plan review and approval is administrative. Tentative Plan Hearing and Final Plat are both subject to scrutiny and approval of the Land Protection Planning Commission.

SECTION 7.300 APPROVALS REQUIRED:

1. Sketch Plan - The Tribal Planning Office shall review the Sketch Plan and identify required changes in the plan. Approval of a P.U.D. Sketch Plan request allows the applicant to submit a P.U.D. Tentative Plan.
2. Tentative Plan - The Tentative Plan for P.U.D. partitions and subdivisions shall be reviewed by the Land Protection Planning Commission at a public hearing and a decision made in the form of an Order from the Commission. Approval of a P.U.D. Tentative Plan request allows the applicant to submit a P.U.D. Final Plat.
3. Final Plat -
 - a) The Final Plat for a P.U.D. partition requires final review and approval by the Tribal Planning Office. Approval will be granted after the Planning Manager is satisfied that all conditions and Requirements, as set forth in the Land Protection Planning Commission Order, have been met.
 - b) The Final Plat for a P.U.D. subdivision requires final review and approval of the Land Protection Planning Commission. Approval will be granted after the Commission is satisfied that all conditions and requirements, as set forth in the Land Protection Planning Commission Order, have been met, and that no new revisions are necessary.

SECTION 7.350 APPROVAL CRITERIA:

1. P.U.D.s are encouraged to provide clustered housing and shared services to the maximum degree possible. They should provide common open spaces, common areas, and shared facilities. Particular attention must be given to the arrangement, location and width of streets, density, open space, landscaping, relation to topography, water supply, sewage disposal, drainage, lot sizes and relationship to adjoining lands and requirements of the Comprehensive Plan.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

2. P.U.D. lots intended for building purposes will not result in construction of dwellings within a flood hazard subdistrict or other area subject to flooding. All P.U.D. lots shall have adequate building space.
3. P.U.D. lots along perennial, intermittent and ephemeral streams are encouraged to provide a suitable buffer of open space, along each side of the stream, which is available for the recreational and cultural use of all residents of the P.U.D.
4. When access to the Mission Community Water and Sewer system is not available, community water and/or sewer systems should be established unless it can be demonstrated that such a system would not be in the interest of public health or is otherwise not practical. For the purpose of this section, community water or sewer systems are those systems serving more than one household. Operation and maintenance of said systems may be contracted to the CTUIR, at its discretion, or otherwise provided for by covenants approved by the P.U.D.
5. The P.U.D. should establish a residents association, agreements, or covenants to share the cost of management for maintaining open areas, common areas, and shared services when needed.

SECTION 7.400 PERMITTED USES:

The principal use in a P.U.D. shall be residential although other uses permitted in the zone may also be included.

SECTION 7.500 DEVELOPMENT STANDARDS:

1. Because of the unique nature of the need and purpose of Planned Unit Developments on the Umatilla Indian Reservation, the following standards shall be met to be eligible to apply for a P.U.D:
 - a) All contiguous lands under the same ownership shall constitute a single parcel for the purposes of creating a P.U.D.
 - b) Contiguous land ownerships, as of the date of adoption of this amendment, (insert date), are considered a single lot for P.U.D. purposes. Lands which remain under contiguous ownership, regardless of current owner(s), are eligible for a P.U.D. if P.U.D.s are permitted for the zone.
 - c) Contiguous parcels which have been altered under circumstances beyond the control of the parcel owner(s), such as condemnation for a public use, remain eligible for a P.U.D.
2. The minimum area requirements for developing a P.U.D. are as follows:
 - a) Eighteen (18) acres in the AG-1, Exclusive Farm Use Zone, AG-2, Farm Pasture Zone, and R-2, General Rural Zone, for the parent parcel (lot of record) in order to create a P.U.D. partition.
 - b) Thirty six (36) acres in the AG-1, Exclusive Farm Use Zone, AG-2, Farm Pasture Zone, and R-2, General Rural Zone for the parent parcel (lot of record) in order to create a P.U.D. subdivision.
 - c) In other zones wherein the P.U.D. is a permitted or a conditional use, the minimum lot size for the parent parcel shall be the minimum lot size for the zone. Non-conforming lots of record are not eligible for a P.U.D. except as otherwise stated for a zone; such as the AG-3 zone.
3. The P.U.D. application and Final Plat shall be signed by all owners of the subject property, or their lawful representative.
4. The P.U.D. shall comply with standards of the Subdivision Manual or other conditions and standards attached to the approval.
5. A cultural resources survey and report shall be completed prior to approval of the Final Plat. Cultural resources surveys and reports shall be conducted by the C.T.U.I.R. Cultural

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Resources Program of the Department of Natural Resources, or an authorized contractor, at the expense of the applicant. The location of significant cultural/archaeological resources shall be cause for Land Protection Planning Commission review and reconsideration of a Tentative Plan approval.

6. The P.U.D. Final Plat shall, at a minimum, comply with the standards for recording at the appropriate recording office.

SECTION 7.600 APPLICATION PROCEDURES:

The following procedures shall be followed when a P.U.D. proposal is submitted:

1. Application for a P.U.D. shall be made upon forms provided by the Tribal Planning Office. Missing information constitutes an incomplete application and the request will not be processed until all necessary information is received.
2. The applicant shall be informed of the Land Development Code sections regarding P.U.D.s and of the applicable portions of the Subdivision Manual of the Confederated Tribes of the Umatilla Indian Reservation.
3. Be accompanied by the appropriate fee, based on the fee schedule adopted by the Board of Trustees.
4. The applicant shall include a list of all lands which the applicant proposes to develop. Trust owners, for the purposes of estate planning, are encouraged to review all of the properties they own and may also request technical assistance from the Tribal Planning Office, Housing Authority, and the Bureau of Indian Affairs, for land use and development strategies.

SECTION 7.620 SKETCH PLAN:

1. The applicant shall submit a sketch plan of the proposed development to the Tribal Planning Office.
 - a) On Trust or Indian owned lands, one copy shall be referred to Indian Health Services or tribal environmental health office (as current protocol dictates), by the Tribal Planning Office, to ascertain the appropriate type of water and septic sanitation system necessary for development of the site and whether the proposed development can be accommodated.
 - b) On fee lands, the applicant shall obtain the services of a licensed septic system installer, inspector, or engineer, to assess the appropriate type of septic sanitation system necessary to meet the Sanitation Code as provided by the State of Oregon Department of Environmental Quality. The assessment shall be submitted in writing to the Tribal Planning Office. The Planning Manager shall have the discretionary authority to determine if the party performing the assessment is qualified.
2. After the Tribal Planning Office reviews the Sketch Plan, it shall advise the applicant of specific changes or additions, if any, it has determined to be necessary. Prior to the Tribal Planning Office final review and decision, the tribal environmental health office, licensed septic system installer, inspector, or engineer, shall submit findings and recommendations to the Tribal Planning Office concerning the septic system location and design for the proposed development. This approval process authorizes the applicant to submit a tentative plan.

SECTION 7.640 TENTATIVE PLAN:

1. Upon approval of the Sketch Plan, the applicant may file an application for approval of a Tentative Plan. The application shall:
 - a) Be accompanied by a minimum of 3 copies of the tentative plan.
 - b) Be on forms available from the Tribal Planning Office.
2. The Planning Manager shall schedule a public hearing before the appropriate hearings body. Notices shall be done in accordance with Chapter 13 of the Land Development Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

3. Approval of a Tentative Plan shall be effective for one year, during which time the Final Plat shall be submitted for approval.

SECTION 7.650 FINAL PLAT:

Upon approval of the Tentative Plan, and any conditions thereto specified for change, inclusion, or omission from the P.U.D. request, the applicant may file a Final Plat with the Tribal Planning Office. Filing shall include:

1. Three (3) copies of the Final Plat with the signatures of all landowners, witnessed or notarized as required by the appropriate recording office.
2. Three (3) copies of all supporting legal documents required for P.U.D. approval. These may include development bonds, homeowner association agreements, etc.

SECTION 7.700 RECORDING THE FINAL PLAT:

1. The applicant shall provide evidence, to the Tribal Planning Office, that the Final Plat has been recorded at the appropriate recording office, within one year of the date of approval of the Final Plat. No P.U.D. Final Plat is complete until it has been recorded.
2. Trust lands shall be recorded, by the applicant, with Real Property Management of the Bureau of Indian Affairs and shall comply with provisions of Title 25, Indian Code of Federal Regulations.
3. Fee Simple or deeded lands shall be recorded, by the applicant, at the Umatilla County Recorder's Office.

SECTION 7.800 APPEALS:

1. Appeal of an administrative decision, regarding P.U.D.s, shall be to the Land Protection Planning Commission.
2. Appeal of a decision by the hearings body, regarding P.U.D.s, shall be to Tribal Court.

CHAPTER 8. VARIANCES

SECTION 8.010 AUTHORIZATION TO GRANT OR DENY VARIANCES:

The Land Protection Planning Commission may authorize variances from the requirements of this Code where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the Code would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Land Protection Planning Commission may attach conditions which it finds necessary to protect the interests of the surrounding property or vicinity or otherwise achieve the purposes of this Code.

SECTION 8.015 CIRCUMSTANCES FOR GRANTING A VARIANCE:

A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this Code have had no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as possessed by the owners of other property in the same zone or vicinity.
3. The variance would not be materially detrimental to the purposes of this Code or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any Reservation Plan or Policy.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

4. The variance requested is the minimum variance which would alleviate the hardship.

SECTION 8.016 GRANTING A VARIANCE TO THE FLOOD HAZARD OVERLAY ZONE REQUIREMENTS:

1. In approving a variance to the standards of the Flood Hazard Overlay Zone, the Commission shall consider all technical evaluations, relevant factors and standards specified in other sections of this code; and
 - a. The danger that material may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed development, including supplies and materials, to flood damage and the effect of such damage on the individual owner;
 - d. The importance to the community of the services provided by the proposed development;
 - e. The nature of the development necessitates its placement at a waterfront location in order to properly function, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The proposed use is compatible with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electricity, water systems, streets and bridges.
2. As with other variances, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of the Flood Hazard Overlay Zone.
3. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places without regard to the procedures set forth in the Flood Hazard Overlay Zone.
4. Variances shall not be granted within a designated floodway if any increase in flood levels during a base flood would result.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances shall only be granted upon:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- a. Showing of good and sufficient cause;
 - b. Determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Subsection 1 of this Section or conflict with other existing laws.
7. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. As such, variances from flood elevations should be quite rare.
 8. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, and otherwise complies with Section 3.325(5) and 3.325(6).
 9. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the Base Flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation.

SECTION 8.020 PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION:

The procedure for taking action on an application for a variance shall be as follows:

1. A property owner or the Land Protection Planning Commission may initiate a request for a variance by filing application with the Planning Staff.
2. Within 45 days or receipt of the application, the Land Protection Planning Commission shall hold a public hearing and render a decision thereon. The applicant shall be given written notice of the decision by the Planning Staff within five (5) days of the decision.
3. An applicant granted a variance must also obtain a Development Permit prior to commencing development.

SECTION 8.025 TIME LIMIT ON A PERMIT FOR A VARIANCE:

A variance shall be void after one year or such lesser time as the permit may specify unless the variance allowed has been substantially completed. However, the Land Protection Planning Commission may extend authorization for an additional period not to exceed one (1) year, upon request.

SECTION 8.030 TIME LIMIT ON REAPPLICATION:

No application for a variance shall be considered by the Land Protection Planning Commission within one (1) year of the denial of such a request, unless in the opinion of the Commission, new evidence or a change of circumstances warrant it.

CHAPTER 9. ZONE CHANGE, AMENDMENTS

SECTION 9.000 AMENDMENTS:

This Code may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

amendment. Such a change may be proposed by the Land Protection Planning Commission on its own motion, or by motion of the Board of Trustees. Any proposed quasi-judicial amendment or change shall first be submitted to the Land Protection Planning Commission and the Commission shall, within forty (40) days after a hearing, recommend to the Board of Trustees' approval, disapproval, or modification of the proposed amendment.

SECTION 9.005 APPLICATION:

An application for amendment by a property owner or his authorized agent shall be filed with the Comprehensive Planning Manager. The application shall be made on the form provided by the Tribal Planning Office.

SECTION 9.010 PUBLIC HEARING ON AN AMENDMENT:

Before taking final action on a proposed amendment, the Land Protection Planning Commission shall hold a public hearing thereon in accordance with Chapter 13 of this code.

SECTION 9.015 STANDARDS FOR ZONE CHANGE:

The burden of proof is upon the one seeking change. The degree of that burden increases proportionately with the degree of impact of the change which is sought. The applicant shall in all cases establish:

1. Conformance with the Comprehensive Plan.
2. Conformance with all applicable statutes.
3. That there is a public need for a change of the kind in questions.
4. That need will be best served by changing the classification of the particular piece of property in questions as compared with other available property.
5. That there is proof of a change of circumstance or a mistake in the original zoning.

SECTION 9.017 ACTION BY THE BOARD OF TRUSTEES:

The Board may, after public hearing by the appropriate subordinate body, enact a Resolution granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment based on the record of the subordinate body. However, if the Board does not believe that the subordinate body's record is complete, the Board may hold their own public hearing in accordance with Chapter 13 of this code, or remand the record back to the subordinate body to reconsider other testimony.

SECTION 9.020 RECORD OF AMENDMENTS:

The signed copy of each amendment to the text of this Code, including the legal description of all lands rezoned legislatively or quasi-judicially shall be maintained on file in the Tribal Planning Office. A record of such amendments shall be maintained in a form convenient for the use of the public by the Comprehensive Planning Manager, including a map showing the area and date of all Amendments hereto. The Comprehensive Planning Manager shall keep the map of this Code as originally enacted. Every five (5) years after the enactment hereof, a map showing the cumulative Amendments hereto for that period shall be filed with the Land Protection Planning Commission and the Board of Trustees.

SECTION 9.025 RESOLUTION OF INTENT TO REZONE:

If, from the facts presented, findings, and the report and recommendations of the Land Protection Planning Commission, as required by this Section, the Commission determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone; the Board of Trustees may indicate its general approval in principle of the proposed rezoning by the adoption of a "Resolution of Intent to Rezone." This resolution shall include any conditions, stipulations or limitations which the Board of Trustees may feel necessary to require in the public interest as a

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

prerequisite to final action, including those provisions which the Board of Trustees may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution, on commitment upon the Board of Trustees.

The failure of the applicant substantially to meet any or all conditions, stipulations or limitations contained in a resolution of intent, including the time limit placed in the resolution, shall render said resolution null and void, automatically and without notice, unless an extension is granted by the Board of Trustees upon recommendation of the Land Protection Planning Commission.

CHAPTER 10. SITE PLAN REVIEW

SECTION 10.005 SITE PLAN REVIEW:

Purpose: This section provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.

SECTION 10.010 ELEMENTS OF SITE PLAN:

The elements of a Site Plan are: The layout and design of all existing and proposed improvements, including, but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures.

SECTION 10.015 SITE PLAN APPROVAL REQUIRED:

1. No building, gradings, parking, land use, sign or other required permit shall be issued for a use subject to this Section, nor shall such a use be commenced, enlarged, altered or changed until a final Site Plan is approved by the Comprehensive Planning Manager pursuant to this Code.
2. The provisions of this Section shall apply to all conditional uses, multiple-family dwellings, and community service uses in any zone, and all developments in the following zones:
 - a) All commercial zones.
 - b) All industrial zones.
3. Non-compliance with a final approved Site Plan, as approved, shall be a zoning code violation.
4. The Board of Trustees or the Land Protection Planning Commission may, as a condition of approval of any action in addition to those outlined in (2) above, require that Site Plan approval be obtained prior to issuance of any required permit.

SECTION 10.020 SITE PLAN: CONTENTS AND PROCEDURES:

1. Any Site Plan shall be filed on a form as provided by the Tribal Planning Office and shall be accompanied by such drawings, sketches and descriptions as the Comprehensive Planning Manager deems necessary to describe the proposed development. A plan shall not be deemed complete unless all information requested is provided.
2. Prior to filing a Site Plan, the applicant shall confer with the Comprehensive Planning Manager concerning the requisites of formal application.
3. Following the pre-application meeting, the applicant shall file with the Comprehensive Planning Manager a Site Plan, which shall contain the items listed in (5) below.
4. The applicant, after pre-application conference with the Comprehensive Planning Manager, shall submit a Site Development Plan, existing natural plant materials inventory of all trees 6"

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

or greater in diameter and other significant species, landscape plan, and architectural drawings (indicating floor plans and elevations) with the following information.

5. The final Site Development Plan shall indicate the following:
 - a) Access to site from adjacent rights-of-way, street and arterials.
 - b) Parking and circulation areas.
 - c) Location, dimensions (height and bulk) and design of buildings and signs.
 - d) Orientation of windows and doors.
 - e) Entrances and exits.
 - f) Private and shared outdoor recreation spaces.
 - g) Pedestrian circulation.
 - h) Public play areas.
 - i) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery.
 - j) Areas to be landscaped.
 - k) Exterior lighting.
 - l) Special provisions for handicapped persons.
 - m) Existing topography of the site at intervals appropriate to the site, but in no case having a contour interval greater than 10 feet.
 - n) Signs.
 - o) Other site elements and information which will assist in the evaluation of site development.
 - p) Public improvements.
6. The landscape plan shall indicate:
 - a) The size, species and approximate locations of existing natural plant materials proposed to be retained and new plant materials proposed to be placed on site.
 - b) Proposed site contouring.
 - c) An explanation of how drainage and soil erosion is to be dealt with during and after construction.

SECTION 10.025 DECISION ON FINAL SITE PLAN:

The Comprehensive Planning Manager may approve a final Site Plan, disapprove it, or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan or the criteria and standards listed in this Code.

The Comprehensive Planning Manager, as a condition of approval, shall require that the applicant/developer file with the Tribal Planning Office a performance bond or other security approved by the Governing Body on a case-by-case basis, to assure his full and faithful performance of the required improvement. The bond shall be for the dollar amount plus 10% of the estimated cost of the improvements. The Comprehensive Planning Manager shall deem whether or not the bond is to cover the cost of said improvements, and incidental expenses.

A decision on a final Site Plan shall include written conditions, if any, and findings and conclusions. The findings shall specifically address the relationships between the plan and the criteria and standards listed in this Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 10.030 SITE PLAN CRITERIA:

Approval of a final Site Plan shall be based on the following criteria:

1. Relation of Site Plan elements to environment:
 - a) The elements of the Site Plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.
 - b) The elements of the Site Plan should promote energy conservation and provide adequate protection from adverse climatic conditions, noise and air pollution.
 - c) Each element of the Site Plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, interrelated, and shall provide spatial variety and order.
2. In commercial and industrial zones adjacent to County, State or Federal highways, a coordinated circulation and access plan shall be submitted for the site and all properties in the immediate vicinity (no more than 1/4 mile to each side) to assure the public's safety in entering or leaving the sites, as well as when traveling through the area. This requirement may be waived by the Comprehensive Planning Manager if adequate access control and efficient and safe circulation can be obtained without the development and approval of a coordinated circulation and access plan.
3. Safety and Privacy: The Site Plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.
4. Special Needs of Handicapped: When deemed appropriate the Site Plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and Braille signs.
5. Preservation of Natural Landscape: The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve the applicant's functions. Preserved trees and shrubs shall be protected during construction.
6. Pedestrian and Vehicular Circulation and Parking: The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be harmonious with proposed and neighboring buildings and structures.
7. Drainage: Surface drainage systems shall be designed so as not to adversely affect neighboring properties, streets, and/or surface and subsurface water quality.
8. Buffering and Screening: Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.
9. Utilities: All utility installations above ground, if such are allowed, shall be located so as to minimize adverse impacts on the site and neighboring properties.
10. Signs and Graphics: The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the Site Plan and surrounding properties.

CHAPTER 11. LAND PROTECTION PLANNING COMMISSION

SECTION 11.005 LAND PROTECTION PLANNING COMMISSION:

Pursuant to the provisions of Chapter II, Section 1, Subparagraphs (c and d) of the Constitution and By-Laws of the Confederated Tribes of the Umatilla Indian Reservation, the Board of Trustees shall establish and maintain a Land Protection Planning Commission which shall have the powers and

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

duties outlined in this Chapter and in the Land Protection Planning Commission By-laws, as amended from time to time.

SECTION 11.010 GENERAL POWERS OF THE COMMISSION:

The Land Protection Planning Commission is responsible for overseeing the administration and enforcement of the provisions of this Code and applicable provisions of the Environmental Health and Safety Code. The Land Protection Planning Commission shall utilize all available resources to ensure all actions promote the purpose of this Code pursuant to Section 1.020.

SECTION 11.015 SPECIAL POWERS OF THE COMMISSION:

1. The Commission is responsible for reviewing this code annually to determine whether it needs to be modified or amended and shall make recommendations to the Board of Trustees on any modifications or amendments the Commission feels the Board should adopt.
2. The Commission is responsible for conducting public hearings to:
 - a) Determine whether variances, conditional uses, subdivisions, planned unit developments or special exceptions shall be granted.
 - b) Make a recommendation to the Board of Trustees which supports or opposes requests for Comprehensive Plan amendments, Land Development Code amendments, Comprehensive Planning Map amendments, zone changes, or any other changes or amendments to a Code for which the Commission is responsible.
 - c) Any other reasons to hold hearings as determined by the Commission or the Board of Trustees.
3. The Commission is responsible for reviewing and approving all major land partitions.
4. The Commission is responsible for fact finding and making recommendations to the Board of Trustees on all matters pertaining to land use planning and environmental health on the Umatilla Indian Reservation, as determined by the Board of Trustees or the Commission.
5. The Commission is responsible for reviewing policy decisions and code interpretations of the Comprehensive Planning Manager.

SECTION 11.020 AUTHORIZATION FOR SIMILAR USES:

The Land Protection Planning Commission may rule that a use, not specifically named in the permitted or conditional uses of this Code, shall be included among the permitted outright or conditional uses, if the use is of the same general type and is similar to the permitted or conditional uses of that zone.

CHAPTER 12. ADMINISTRATIVE PROVISIONS

SECTION 12.001 INTRODUCTION:

This chapter is enacted to provide uniform procedures for administrative actions under this Code.

SECTION 12.005 CODE ADMINISTRATION:

1. The Comprehensive Planning Manager is the Tribal official responsible for administering and enforcing the provisions of the Land Development Code.
2. Where there is a question regarding the intent of this Code and its administration, the Comprehensive Planning Manager shall have the authority to make administrative policy rulings. Such rulings may be appealed to the Land Protection Planning Commission.
3. The Comprehensive Planning Manager shall create and maintain such forms as are necessary to obtain the information needed to carry out the requirements of this Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

4. The Comprehensive Planning Manager shall make available to the public all information and application processes necessary to fulfilling the requirements of this Code.
5. The Comprehensive Planning Manager may establish such fees as are necessary to cover the costs of copies, documents, and other direct expense items.
6. The Comprehensive Planning Manager shall establish a Master Fee Schedule, and having the schedule adopted by the Board of Trustees, for the filing of applications necessary to fulfill the requirements of this Code.
7. The Comprehensive Planning Manager shall be responsible to the Land Protection Planning Commission for the coordination of Commission business, including agendas, minutes, budgets, and stipends.

SECTION 12.010 ADMINISTRATIVE ACTIONS:

An application for a Development Permit, Forest Practice Permit, Removal-Fill Permit, Site Plan Review, or Minor Partition, may be decided as an administrative action or referred for hearing, at the discretion of the Comprehensive Planning Manager. Subdivisions, Planned Unit Developments, Variances, Conditional Uses, Major Partitions, Comprehensive Plan Amendments, Comprehensive Plan Map Amendments, Land Development Code Amendments, and Zoning Map Amendments are not considered administrative actions and shall be submitted by the Comprehensive Planning Manager to the hearings body for review or hearing, as appropriate.

1. Such an application shall be made to the Comprehensive Planning Manager on forms provided by the Tribal Planning Office.
2. Any party can appeal an administrative decision to the Land Protection Planning Commission. On appeal, a hearing shall be held according to Chapter 13.
3. No permit, temporary or otherwise, shall be issued to a person, or for property, which is the subject of a violation, violation proceedings, or suspected violation of this Code or other codes, regulations, or laws of the Tribes until such time as the violation has been resolved to the satisfaction of the Comprehensive Planning Manager, subject to appeal.

SECTION 12.012 PERMIT REVIEW:

Prior to issuing a permit the Comprehensive Planning Manager shall:

1. Review the application to determine that the permit requirements of this Code have been satisfied;
2. Review the application to determine that all necessary permits have been obtained from those Tribal and Federal agencies for which prior approval is required;
3. Review the permit application to determine if the proposed development is located in a Special Flood Hazard Area. If located in a Special Flood Hazard Area the provisions of the Flood Hazard Overlay Zone (*see* Chapter 3, Subchapter M) shall be applied;
4. Where elevation data are not available either through the Flood Insurance Study or from another authoritative source, the application for a permit shall be reviewed to assure that proposed land use and development will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

SECTION 12.015 PERMIT REQUIREMENTS:

1. No person, firm or corporation, natural or otherwise, shall cause or permit the construction of any structure, underground or otherwise, nor shall any buildings be erected, constructed, moved, added to or structurally altered without a permit required by this Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

2. No person, firm or corporation, natural or otherwise shall cause or permit the use of any land without a permit required by this Code.

SECTION 12.017 PERMIT APPLICATION:

Permit applications shall be made on applicable forms furnished by the Comprehensive Planning Manager and may include but not be limited to plans, in duplicate, drawn to scale showing the nature, location, dimensions, and elevations of the area; existing or proposed uses, structures, fill, storage of materials, and drainage facilities.

SECTION 12.018 APPLICATION FOR DEVELOPMENT PERMIT IN FLOOD HAZARD OVERLAY ZONE:

1. The application for a Development Permit in the Flood Hazard Overlay Zone shall be a two part permit. The first part of the permit shall review the proposed development for compliance with this Code, and if approved, will authorize the applicant to install the foundation for the structure. Upon confirmation of the required elevation for the foundation, as determined by a licensed surveyor, and assessed for conformance with the requirements of this Code, the second part of the permit will be issued authorizing the applicant to proceed with construction.
2. Information required for the first part of the permit shall be the proposed elevation in relation to mean sea level, of the lowest part of the structure measured to be at least one foot above Base Flood elevation as measured from the concrete pad (if the bottom floor of the structure is a concrete slab) or to the bottom of the floor joists or floor insulation, whichever provides the greatest elevation floor (including basement);
 - a. Elevation in relation to mean sea level, to which any structure has been or is proposed to be flood proofed;
 - b. Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 3.328; and
 - c. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
3. The structure may not be used or occupied until a properly completed Elevation Certificate has been filed and a Certificate of Occupancy issued by the Building Codes Inspector.

SECTION 12.020 DURATION OF PERMIT:

1. All Permits shall be valid for a period of one year after the date of approval, unless a longer duration is granted as part of the approval. The date of the approval is the date the permit is issued to the applicant. The Comprehensive Planning Manager may issue permits for a shorter period of time, as a condition of approval, if the Comprehensive Planning Manager determines that the limitation is necessary to meet the goals and objectives of the Comprehensive Plan, this Code, or any other Tribal law or code.
2. Development Permits for building code compliance in Special Flood Hazard Areas will be for 180 days after the date of approval. If a longer duration is granted as a part of the approval, the Comprehensive Planning Manager must check the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) prior to the 180 days after the approval date to ensure that there have been no revisions pertaining to the development site. The date of approval is the date the permit is issued to the applicant. The Comprehensive Planning Manager may issue permits for a shorter period of time as a condition of approval if the Comprehensive Planning Manager determines that the limitation is necessary to meet the goals and objectives of the Comprehensive Plan, this Code, or any other Tribal law or code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 12.025 EXTENSION:

1. Any Permit may be extended, prior to expiration, by the Comprehensive Planning Manager, for periods of three months up to one year. Such extensions shall be administrative and in writing.
2. No permit may be extended unless significant progress occurred during the duration of the permit or extension.

SECTION 12.030 TEMPORARY PERMIT:

The Comprehensive Planning Manager may authorize a Temporary Permit provided that:

1. An appropriate permit application has been submitted;
2. The applicant has demonstrated good and sufficient cause for such a temporary permit;
3. It appears that a submitted application, under review, is likely to be approved and an immediate situation warrants the proposed use to begin immediately, or that the proposed use is temporary in nature and supports, or is consistent with, a permitted use in the zone; and
4. The applicant accepts each and every risk of loss and damage that may result if a permit application is denied. Tribal officers, agents, and employees shall be held harmless from said loss and damage.
5. Applicant shall restore site to its original condition, or better (as determined by the Comprehensive Planning Manager) if the permit application is denied.
6. The Comprehensive Planning Manager may place restrictions or conditions on a permit in order to protect the health and welfare of the residents of the Umatilla Indian Reservation and uphold the Land Development Code, Comprehensive Plan, or other such regulations, codes or laws as may be applicable. Such restrictions or conditions may also include reclamation or performance bonds, at the Comprehensive Planning Manager's discretion.
7. As provided for under Section 17.005 (14).

SECTION 12.035 FEES:

The Comprehensive Planning Manager shall be responsible for the collection of all fees, associated with developing on the Reservation, required by this Code and the Uniform Building Codes. Fees shall be set forth in the Chapter 19 of this code and may be updated from time to time by the Board of Trustees. All such fees shall be deposited in an account designated by the Tribal Accounting Office and shall be used to offset the cost of administering the Land Development Code. Applicant shall pay fees upon submission of a completed application.

SECTION 12.040 SITE PLAN REVIEW:

1. The Comprehensive Planning Manager shall have responsibility for Site Plan Review and for ensuring compliance with Chapter 10, Site Plan Review.
2. If a Staff Review Committee reviews Site Plan applications, such review shall be in accordance with the procedures as set forth in the Tribal Staff Review Committee's Statement of Purpose and Coordination Paper, as it may be amended from time to time, and with Chapter 10, Site Plan Review.

SECTION 12.050 SPECIAL FLOOD HAZARD AREA INFORMATION TO BE OBTAINED AND MAINTAINED:

The Comprehensive Planning Manager shall obtain and maintain the following:

1. Where base flood elevation data is provided through the Flood Insurance Study or required in Section 3.305, obtain and record the actual elevation (in relation to mean sea level) of the

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- lowest floor, including the basement, of all new or substantially improved structures and whether or not the structure contains a basement. (Section 3.335(1)(f) and (g)).
2. For all new structures or substantially improved floodproofed structures where the base flood elevation data is provided through the Flood Insurance Study or as required in Section 3.305:
 - a. Verify and record the actual elevation in relation to mean sea level. (Section 3.335 (1)(f)); and
 - b. Maintain the floodproofing certifications required in Section 3.335 (1)(g).
 3. Maintain for public inspection all records pertaining to the provisions of the Flood Hazard Overlay Zone.

SECTION 12.055 ALTERATION OF WATER COURSES:

The Comprehensive Planning Manager shall:

1. Notify adjacent communities and State Coordinating agencies prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Insurance Administration;
2. Require that maintenance is provided within the altered or relocated portion of said water course so that Base Flood carrying capacity is not diminished;
3. Coordinate with the Tribal Water Resources Office and no permit for development shall be approved without a permit required by the Tribal Water Code and Stream Alteration Regulations.

SECTION 12.060 INTERPRETATION OF FIRM BOUNDARIES:

1. The Comprehensive Planning Manager shall make interpretations where needed, as to the exact location of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
2. A person may contest the location of the boundary and shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection 1 of this Section. The burden of proof shall be on the applicant.

CHAPTER 13. HEARINGS

SECTION 13.005 PURPOSE:

The purpose of public hearings shall be to have a full factual presentation on the proposed use or activity and to provide an opportunity for public comment and testimony.

SECTION 13.010 HEARINGS BODY ORDER:

All hearings required under this code shall be heard by the Land Protection Planning Commission unless the Commission is unable to obtain quorum due to vacant positions or conflict of interest. If the Commission is unable to hear the request due to the reasons stated above, the Board of Trustees shall hold the hearing according to the criteria of this Chapter.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 13.015 HEARING DATE:

At the time an application requiring a hearing is filed, a hearing date shall be determined. The Comprehensive Planning Manager shall have discretionary authority to reschedule hearings.

SECTION 13.020 NOTICE OF HEARING:

1. Notice of an application for an action which requires a public hearing shall be mailed at least ten (10) days prior to the hearing. Written notice shall be sent by mail to the following persons:
 - a) The applicant, owner, or agent.
 - b) All owners of property located within 250 feet of the property which is the subject of a public hearing. For the purpose of determining whether property is within 250 feet of another property, intervening public and private ways and water courses shall not be considered.
 - c) Chair of the Board of Trustees.
 - d) Tribal attorney.
 - e) Any other person or agency deemed necessary by the Comprehensive Planning Manager or Land Protection Planning Commission.
2. Notice for a utility facility line request shall be by posting the proposed route at intervals of not more than one-half mile in addition to the requirements of Section 13.020 (1)). The notice shall be posted as close as practicable to, and be visible from, any public way in the vicinity of the proposed route. Posting utility facility line permit notices shall be the responsibility of the applicant. Applicant shall remove all notices within seven (7) days following a written decision on a proposal.
3. In addition to notice by mail or posting, notice of a hearing shall be published in a local newspaper of general circulation at least ten (10) days prior to the hearing.
4. The failure of a property owner to receive mailed notice shall not invalidate any public hearing or subsequent action by the Hearings Body.

SECTION 13.025 CONTENTS OF NOTICE:

1. All notices shall provide reasonable notice of the hearing, the nature of the applicant's request, and the right to comment in writing. The notice shall also inform interested persons of their right to appear at the hearing on the application.
2. All notices for hearings shall contain a statement that the recipient may request a copy of the staff report.

SECTION 13.030 FILING OF STAFF REPORT FOR HEARING:

1. A staff report shall be completed ten (10) days prior to the hearing.
2. A copy of the staff report shall be mailed to the Applicant, made available to such other persons who request a copy, and shall be filed with the hearings body.
3. Oral or written modifications and additions to the staff report shall be allowed prior to or at the hearing.

SECTION 13.035 BURDEN OF PROOF:

The burden of proof is upon the one seeking change.

SECTION 13.040 NATURE OF EVIDENCE:

All relevant evidence shall be considered.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 13.045 LIMITATION ON ORAL PRESENTATIONS:

The hearings body may set reasonable time limits.

SECTION 13.050 STANDING:

Any person appearing on the record at the hearing or presenting written evidence in conjunction with a hearing shall have standing and shall be a party.

SECTION 13.055 RECORD:

1. A magnetic tape record of the hearing shall be made.
2. All exhibits presented shall be marked to show the identity of the person offering the evidence.
3. Exhibits shall be numbered.
4. When introduced, the exhibit number shall be read into the record.

SECTION 13.060 PROHIBITION ON PRE-HEARING CONTACTS:

1. The Hearings Body, or any member thereof, shall not communicate directly or indirectly with any party or their representative in connection with any issue involved in a hearing except upon notice and opportunity for all parties to participate. Any pre-hearing contacts shall be disclosed prior to the hearing.
2. It shall be unlawful for any party, person, firm or corporation to contact a member of a hearings body, listed under Section 13.010, outside of a hearing, for the purpose of intentionally influencing their decision on an issue pending or proposed to be brought before a hearings body. Such violation shall be subject to the violation procedures set forth in this manual as well as other civil and criminal penalties.

SECTION 13.065 CHALLENGE FOR BIAS, PREJUDGMENT OR PERSONAL INTEREST:

1. Prior to or at the commencement of a hearing, any party may challenge the qualification of the hearings body, or a member thereof, for bias, prejudice or personal interest. The challenge shall be documented with specific reasons supported by facts.
2. Should qualifications be challenged, the Hearings Body or the individual members shall disqualify themselves, withdraw, or make a statement on the record of their capacity to hear.

SECTION 13.070 HEARING PROCEDURE:

A hearing shall be conducted in the following order:

1. The hearings body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
2. A statement by the hearings body regarding pre-hearing contacts, bias, prejudice or personal interest shall be made.
3. Any facts received, noticed or recognized by the Hearings Body or its constituents outside of the hearing shall be stated into the record.
4. Challenges to the hearings body's qualifications to hear the matter shall be stated.
5. Order of presentation:
 - a) Staff report
 - b) Proponents' presentation
 - c) Citizens' issues presentation
 - d) Opponents' presentation

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- e) Proponents' rebuttal
- f) Citizens' issues rebuttal
- g) Opponents' rebuttal
- h) Staff comment
- i) Questions from or to the Hearings Body may be entertained at any time at the Chair's discretion.

SECTION 13.075 OBJECTIONS TO JURISDICTION, PROCEDURE, NOTICE OR QUALIFICATIONS:

Any objections to jurisdiction, procedure, notice, or qualifications which were not raised prior to or during the hearing are waived except that appeals may be filed regarding qualifications if there is a violation of Section 13.050 or Section 13.055.

SECTION 13.080 NOTICE OF DECISION:

1. The final decision shall be in writing and mailed to all parties; provided, however, one person may be designated by the Hearings Body or Comprehensive Planning Manager to be the recipient of the decision for a group, organization, group of Petitioners, or similar collection of individuals constituting parties.
2. The final decision shall include all significant facts, findings, and conclusions of the Hearings Body, and shall conclude with an order reflecting the Hearings Body's decision.

SECTION 13.085 REVIEW BY HEARINGS BODY:

1. A review of a Hearings Body's decision may be initiated by the Hearings Officer or by not less than two members of the Land Protection Planning Commission. Review of the decision of a Hearings Body is limited to the originating body or a higher body as listed in Section 13.010 Hearings Body Order.
2. The review shall be initiated in writing within fifteen (15) days of the date of the final written decision.
3. A review shall be conducted in the same manner provided for in appeals.

CHAPTER 14. APPEALS PROCEDURES

SECTION 14.010 APPEALS:

1. The decision of an administrative or hearings body shall be final unless a written notice of appeal is filed with the Umatilla Tribal Court within fifteen (15) days following the mailing of the final decision.
2. The following persons may file an appeal:
 - a) A party to the Hearings Body decision
 - b) A person to whom notice was to be mailed in accordance with Section 13.020 of this Code, and to whom no notice was mailed.
3. A person to whom notice was required to be mailed under Section 13.020 of this Code is deemed notified, even if notice was not received.
4. Every notice of appeal shall contain the specific grounds relied upon for appeal.
5. All parties shall be mailed notice of the appeal, by the Umatilla Tribal Court, at least ten (10) days prior to the hearing on appeal.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

6. The record of the proceeding from which appeal is taken shall be a part of the record on appeal.
7. Appeal process:
 - a) An appeal shall be filed within fifteen (15) days from the date of the Hearing Body's ruling or decision by filling out the appeal form provided by the Court Clerk.
 - b) Filing shall not be effective until the filing fee is paid to the Court Clerk.
 - c) The Tribal Planning Office shall make a tape copy of the magnetic tape of the hearing available to any party who requests a copy thereof. The cost of obtaining such copy shall be determined according to the cost of tape reproduction, blank tapes, and personnel time, as determined by the Comprehensive Planning Manager or designee. Said copies shall be made within 5 working days of the request, after the filing of an appeal with the Umatilla Tribal Court.
 - d) Within fourteen (14) days of the filing of an appeal, the appellant shall submit to the Court, and the Tribal Planning Office, a complete transcript of the hearing being appealed. The cost of producing the transcript shall be borne by the appellant. The Court may, at its discretion, allow extensions to the period for submission of a transcript when extenuating circumstances dictate that such extensions are necessary.
 - e) Upon receipt of the transcript, the Court:
 - i) May review the record and decide the appeal without oral argument or written briefs; or
 - ii) May schedule oral argument on the appeal or request written briefs from the parties involved.
 - f) The Tribal Planning Office shall transmit to the Court, within 10 working days after notification of an appeal, a list containing the names and addresses of all persons who were mailed notice of the hearing, as well as a list of the names and addresses of all persons who testified or gave evidence at the hearing.
 - g) The Court shall send written notice of the appeal to all persons having standing as well as members of the Hearings Body involved in the decision and the Tribal Planning Office..
 - h) The Court may, upon review of a decision issued by the Hearings Body:
 - i) Affirm the ruling of the Hearings Body, either in whole or in part; or
 - ii) Reverse the ruling of the Hearings Body either in whole or in part; or
 - iii) Remand the case to the Hearings Body for reconsideration.
 - i) The Court shall issue findings of fact and conclusions of law supporting its decision.

SECTION 14.030 REHEARING:

Rehearings shall not be allowed.

SECTION 14.035 JURISDICTION OF TRIBAL COURT:

1. The Umatilla Tribal Court shall have the jurisdiction to hear appeals of decisions issued by the Hearings Body in hearings held pursuant to this Code.
2. All appeals shall be to the Court on the record.
3. There shall be no testifying or submission of evidence to the Court at the appellate level.
4. The Court may allow oral arguments or written briefs by the parties to the appeal.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 14.040 SCOPE OF COURT'S REVIEW:

1. The Court shall review the record from the hearing to determine whether the decision is consistent with the Comprehensive Plan, Land Development Code, and other applicable law.
2. The Court shall not overrule the Hearings Body decision unless the Court determines that the facts set forth in the transcript of the hearing record are:
 - a) Insufficient to support the Hearings Body's ruling; or
 - b) Inconsistent or in violation of the Comprehensive Plan, the Land Development Code or other applicable law.

SECTION 14.050 UNLAWFUL INTERFERENCE:

No person holding office in Tribal government or employed by the Confederated Tribes of the Umatilla Indian Reservation or other governmental entities on the Umatilla Indian Reservation shall use or attempt to use his position to influence any decision of the Umatilla Tribal Court.

CHAPTER 15. ENFORCEMENT PROCEDURES

SECTION 15.005 REPEALS:

The repeal of any Code or Manuals, or part thereof, by this Manual shall not release or extinguish any penalty, forfeiture, nuisance, obligation or liability incurred under such Codes, unless a provision of this Manual shall so expressly provide, and such Codes repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution of the enforcement of such penalty, forfeiture, nuisance, obligation or liability.

SECTION 15.010 CODE ENFORCEMENT:

The Comprehensive Planning Manager is the Tribal official responsible for administering and enforcing the provisions of the Land Development Code. When Tribal law enforcement personnel are involved in the enforcement of this Code, the Comprehensive Planning Manager and the Tribal Police Department shall work cooperatively to ensure consistency in policy for enforcement.

SECTION 15.015 VIOLATION PROCEDURE:

The Comprehensive Planning Manager shall follow the procedure set forth below when a violation of this code is observed:

1. Upon observing a violation, the Comprehensive Planning Manager shall issue a warning to the violator which shall specify the nature of the violation and request that the violation be corrected within 30 days.
2. If the violation is not corrected within 30 days, the Comprehensive Planning Manager or shall issue a citation to the violator which shall:
 - a) Be in writing and in the name of the Confederated Tribes;
 - b) State the name of the violator;
 - c) Bear the signature of the Comprehensive Planning Manager;
 - d) State the name and section number of the code violation;
 - e) State a brief summary of facts constituting the violation;
 - f) State the time and place of the violation as definitely as possible;
 - g) State the time and place violator must appear to answer to the violation.
3. The Tribal Court shall adjudicate the merits of a citation issued by the Comprehensive Planning Manager. The Comprehensive Planning Manager shall have the burden of proving

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

the allegation in the citation by the preponderance of the evidence. The alleged violator shall have the right to put on a defense to the citation.

Tribal Court shall have the authority to exercise any and all of its inherent judicial powers in order to facilitate its adjudication of violations of the Code and brought before the Court.

In ruling on violations arising under this code, the Tribal Court shall have the authority to assess and collect civil penalties in amounts commensurate with the damage, danger or risk created by a violation of this code in accordance with Section 15.100 of this code, and shall have the authority to enjoin or mandate action in the enforcement of this code.

4. If the violation observed is one which requires immediate remedial action to protect the persons or resources on the Reservation, the Comprehensive Planning Manager may issue a written order directing that work or action violating this Code or regulation stop immediately. Any such order shall specify the person or entity to whom it is issued, when it was issued, where it was issued, by whom it was issued and shall specify that facts which warranted immediate action. If the alleged violator fails to obey the Comprehensive Planning Manager's order to immediately cease and desist the work or action in violation of the code, the Comprehensive Planning Manager may issue a citation pursuant to 15.015(2) and deliver a copy of the citation to the Tribal Prosecutor for filing of, or the Comprehensive Planning Manager may file, a petition requesting immediate emergency relief and an expedited hearing in Tribal Court on the merits of the alleged violation.
5. If, in the judgment of the Comprehensive Planning Manager, any delays in stopping the violation will cause irreparable harm, the Comprehensive Planning Manager may ask the Court for a Temporary Restraining Order, by filing the proper petition and affidavit with specific facts clearly showing that immediate and irreparable injury, loss or damage will result before a hearing can be held.
 - a) The court may issue a temporary restraining order or a preliminary injunction at any time after commencement of the action and before judgment and when:
 - i) It appears that the Tribes are entitled to the relief, demanded in a pleading, under the Land Development Code, and the relief, or any part of the relief, seeks to restrain the commission or continuance of some act, which, if allowed during the litigation, would injure the Tribes; or
 - ii) It appears that the defendant is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the Land Development Code concerning the subject matter of the action, and tending to render the judgment ineffectual.
 - b) A temporary restraining order may be granted without written or oral notice to the adverse party or to such party's attorney only if:
 - i) It clearly appears from specific facts shown by affidavit or by a verified petition or complaint that immediate and irreparable injury, loss, or damage will result to the Tribes before the adverse party or the adverse party's attorney can be heard in opposition, and
 - ii) The Comprehensive Planning Manager or Tribal Prosecutor submits an affidavit setting forth the efforts, if any, which have been made to notify the defendant or defendant's attorney of the motion, including attempts to provide notice by telephone, and the reasons supporting the claim that notice should not be required.
 - iii) The temporary restraining order is endorsed with the date and hour of issuance, filed immediately, defines the injury and states why it is irreparable. and states why the order was granted without notice.
 - c) Every temporary restraining order shall expire by its terms within 10 days after its entry, or less as the court fixes. Within the time fixed by the court, the court may extend the order for a like period if the Comprehensive Planning Manager or Tribal

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Prosecutor show good cause, or if the party against whom the order is directed consents to an extension. The court shall enter the reasons for the extension into the record.

- d) If the court grants a temporary restraining order without notice, the motion for a preliminary injunction shall be set for a hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. When the motion comes to hearing the Comprehensive Planning Manager or Tribal Prosecutor shall proceed with the motion for a preliminary injunction and, if they do not do so, the court shall dissolve the temporary restraining order.
 - e) On two days notice (or on shorter notice if the court so orders) to the Comprehensive Planning Manager or Tribal Prosecutor (whoever obtained the temporary restraining order without notice), the adverse party may appear and move for dissolution or modification of such restraining order. In that event, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.
 - f) If the adverse party actually appears at the time of the granting of the restraining order, the restraining order is not, as a result, converted into a preliminary injunction, unless notice to the adverse party is in accord with Section 15.015(5)(g). If a party moves to dissolve or modify the temporary restraining order as permitted by Section 15.015(5)(e), and the motion is denied, the temporary restraining order also is not, as a result, converted into a preliminary injunction.
 - g) No preliminary injunction shall be issued without notice to the adverse party at least five days before the time specified for the hearing, unless a different period is fixed by order of the court.
 - h) Before or after the commencement of the hearing of a motion for preliminary injunction, the parties may stipulate that the trial of the action on the merits shall be advanced and consolidated with the hearing of the injunction. The parties may also stipulate that any evidence received upon a motion for a preliminary injunction, which would be admissible in the trial on the merits, becomes part of the record on trial and need not be repeated at trial.
 - i) Every order granting a preliminary injunction and every restraining order shall set forth the reasons for its issuance, shall be specific in terms, shall describe in reasonable detail (and not by reference to the complaint, petition or other document) the act or acts sought to be restrained, and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with any of them who receive actual notice of the order by personal service or otherwise.
 - j) For purposes of enforcing the Land Development Code, the Comprehensive Planning Manager and/or Tribal Prosecutor is not required to provide a bond or any security.
 - k) Any violation of the Temporary Restraining Order is punishable as contempt of court.
 - l) A Temporary Restraining Order is not appealable except for interlocutory review under the exceptional remedy of mandamus.
 - m) For purposes of timber harvests, irreparable harm, injury, loss, or damage includes any removal of any timber without a required permit or in violation of the terms of a permit issued by the Comprehensive Planning Manager or Land Protection Planning Commission.
6. The Judge may issue a Temporary Restraining Order by telephone. Tribal Judges are responsible for informing the Court Clerk of the telephone numbers by which they can be reached when not available in the tribal court offices, and the Court Clerk shall release such telephone numbers for the purpose of a Temporary Restraining Order petitions, when requested by the Tribal Prosecutor or Comprehensive Planning Manager under this section.

STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)

SECTION 15.100 CIVIL PENALTIES:

1. Any violation of the Land Development Code may result in a maximum fine of \$10,000 per violation. Each day of operation in violation of a citation or an order issued under Section 15.015(2) or (4) shall be deemed a separate offense.
2. In the alternative, the court may impose a fine not exceeding double the amount of any gain from any criminal or civil violation.
3. Imposition or payment of a civil penalty under this Section shall not be a bar to actions alleging trespass, nor to any other penalty provided by law.

SECTION 15.200 CRIMINAL PENALTIES:

Any knowing, willful, intentional, or reckless violation of the Land Development Code or a citation or an order under Section 15.015(2) or (4), is punishable, upon conviction, as a crime pursuant to the Criminal Code and Procedures. Each day of operation in violation of a citation or an order issued under Section 15.015(2) or (4) shall be deemed to be a separate offense. This section shall apply to all persons to the extent permitted by Federal law.

CHAPTER 16. EXCEPTIONS

No permit shall be required for the following uses:

SECTION 16.010 FARM BUILDINGS:

Farm buildings such as barns, sheds, silos, but does not include a principal dwelling unit of an owner, tenant farmer or farm employees living quarters.

SECTION 16.020 CORRALS AND FENCES:

Corrals and fences can be constructed provided livestock managers and property owners follow requirements to protect water quality as defined in the CTUIR Water Code. Stream-side vegetation and stream bank stability are the primary concerns in this instance. Where possible, livestock should be fenced off from streams producing anadromous fisheries.

SECTION 16.030 STORAGE:

Storage of farm products grown on the premises.

SECTION 16.040 CULTURAL:

Cultural practices including, but not limited to, the construction of suitable buildings for the curing of foods and medicine, the construction of sweat-houses, teepees, long-tents, and other structures for the purpose of carrying on ceremonies, traditions, social and tribal religious affairs. If any questions arise regarding the classification of a use under this section, the Tribal Planning Office shall consult with the Tribal Cultural Resources Commission and the Board of Trustees for the final determination.

SECTION 16.050 FOREST PRACTICES:

The following forest practices are exempt from the requirement to obtain a Forest Practice Permit (other permits may be required consistent with the provisions of this Code and other applicable Tribal laws including but not limited to the Water Code).

- A. Bare root tree planting and seeding;
- B. Firewood for personal use (<5000 board feet gross, approximately equivalent to 10 cords)
- C. Road maintenance consisting of removal of downed trees interfering with road passage;
- D. Christmas tree removal for personal use;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- E. Removal of trees for personal use as teepee poles (<5000 board feet gross);
- F. Removal of trees for personal use as fence posts (<5000 board feet gross);
- G. Non-destructive Forest Research studies;
- H. Hazard tree removal (<5000 board feet gross).

CHAPTER 17. PROVISIONS APPLYING TO SPECIAL USES

SECTION 17.005 SPECIAL USES:

In addition to the standards of this Code, the following special uses shall comply with the provisions of this section:

1. Automobile Service Stations - Minimum Standards.
 - a) Location: No portion of any service station shall hereafter be constructed within 1,500 feet of any part of a building housing another service station, except where such other service station is abandoned and subject to removal under this section. This shall not prevent the remodeling of an existing service station.
 - b) Minimum Lot Size: The minimum lot size for a service station site shall be 12,000 square feet. The minimum street frontage on the major traffic carrying street of a corner lot shall be 100 feet. The minimum street frontage for a service station site on an interior lot shall be 120 feet. The minimum lot depth shall be 100 feet.
 - c) Setbacks: Service stations shall set back from property lines not less than 10 feet. Attached or free-standing canopies may not extend closer than 10 feet to the property line. The minimum 10 feet distance between property line and building shall be appropriately landscaped as a continuation of the service station's required landscaping.
 - d) Screening: A sight obscuring fence or wall not less than 6 feet or more than 8 feet or an evergreen hedge planted at 4 feet and capable of obtaining 6 feet in height, shall be provided between the service station and abutting property in a residential zone or used for residential purposes. Said wall, fence, or hedge, shall be reduced to 2½ feet in vision clearance areas. A screened trash enclosure shall be provided on each station site.
 - e) Landscaping: Landscaping shall be installed and maintained occupying a minimum of 5 percent of the station site's net area. Plans for landscaping shall be approved during site plan review.
 - f) Lighting: Lighting shall be of such illumination, direction, color, and intensity as not to create a nuisance on adjacent property or to create a traffic hazard. Wiring for the business and its signs and light fixtures, shall be underground.
 - g) Other Requirements: No storage of inoperative automobiles or parts thereof, shall be permitted except in enclosed structures for any period exceeding 72 hours.
 - h) Off-street parking space shall be provided for each attendant of the largest shift. Sales storage and display of merchandise shall be conducted within a building, except for gasoline, oil, windshield wiper blades, and other accessories of like size. Use of property for service station may also include the sale and installation of motor vehicle accessories, minor vehicle repairs (such as tune-ups, tire repair and the like), emergency vehicle repairs, and any other sale, service, or activity customarily incidental to the operation of a service station where such other sale, service, or activity would otherwise be permitted within the Zone.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- i) Abandonment: Whenever a service station is not used as such for a continuous period of nine months, all structures and facilities above and below the ground shall be removed by the owner. Operation for at least 90 consecutive days shall be required to interrupt a continuous nine-month period.
2. Church, Hospital, Nursing Home, Convalescent Home, Retirement Home:
 - a) Such uses may be authorized as a conditional use only upon a finding that:
Sufficient area is provided for the building, required yards, and off-street parking. Related structures and uses such as a manse, parochial school, or parish house are considered separate uses and additional lot areas shall be required therefore.
 - b) The applicant shall address the following issues in the application:
 - i) Location of the site relative to the service area.
 - ii) Probable growth and needs therefore.
 - iii) Site location relative to land uses in the vicinity.
 - iv) Adequacy of access to and from principal streets and the probable effect of the proposal on the traffic volume of abutting and nearby streets.
 - c) Such uses or related buildings shall be at least 30 feet from a side or rear lot line.
3. Commercial Amusement Establishment: A commercial amusement establishment may be authorized after consideration of the following factors:
 - a) Adequacy of access from principal streets together with the probable effect of traffic volumes of abutting and nearby streets.
 - b) Adequacy of off-street parking.
 - c) Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.
4. Community Buildings, Social Halls, Lodges, Fraternal Organizations and Clubs: All buildings shall be set back a minimum of 30 feet from a side or rear lot line, there shall be no external evidence of any incidental commercial activities taking place within the building, all such uses shall be located on a major street or road, and be able to provide access without causing traffic congestion on local residential streets.
5. Dog Pounds and Kennels: The Land Protection Planning Commission may authorize a dog pound or kennel as a conditional use provided that building and site design provisions are adequate to minimize noise and odor. When necessary to protect surrounding properties, the Commission may require a sight obscuring fence or hedge and may restrict vehicular access and loading facilities, especially those required by trucks transporting large animals.
6. Home Occupations: The CTUIR will administer home occupations in the following manner:
 - a) A home occupation shall be allowed only within the zones where dwellings are permitted uses.
 - b) A home occupation shall be secondary to the main use of the property as a residence and shall be operated by the resident of the property on which the business is located within the same dwelling or in an accessory building normally associated with uses located in the zone;
 - c) A home occupation shall not exceed 25% of the square footage of the building which it is located in;
 - d) No materials of mechanical equipment shall be used which will be detrimental to the residential use of the property and the adjoining residence because of noise, dust, smoke, odor, or other factors;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- e) Outside storage of materials, equipment, or products related to the home occupation shall not be allowed;
- f) The existence of a home occupation shall not be used as justification for any future zone change.
- g) Individuals requesting a home occupations on the Reservation shall fill out an Home Occupation Administrative Permit (No Fee Required). The permit shall be developed and provided by the Tribal Planning Office containing all the appropriate information necessary for proper records.

If any of the above referenced criteria are not being meet, the home occupation will be considered a violation of the Land Development Code. All violations are subject to the enforcement procedures set forth in this code.

- 7. Landfill, Solid Waste Disposal Site: The Land Protection Planning Commission may authorize a landfill or other solid waste disposal site as a conditional use, subject to the following standards:
 - a) The proposed site shall not create a fire hazard, litter, insect or rodent nuisance, or air or water pollution in the area.
 - b) The proposed site shall be located in or near as possible to the area being served.
 - c) The proposed site shall be located at least one-quarter mile from any existing dwelling, home, or public road (except the access road).
 - d) The proposed site shall be provided with a maintained all-weather access road.
- 8. Land Strips for Aircraft and Heliports: All landing strips and heliports for aircraft shall be so designed and facilities so oriented, that the incidents of aircraft passing directly over dwellings during their landing or taking off pattern is minimized. They shall be located so that traffic, both land and air, shall not constitute a nuisance to neighboring uses. The proponents shall show that adequate controls or measures will be taken to prevent offensive noise, vibrations, dust, or bright lights. New landing strips and heliports shall not be construed to be a permitted use in any Zone established by this Code unless and until a Conditional Use Permit shall first have been secured therefore.
- 9. Multi-Family Dwelling Complex: A multi-family dwelling complex shall comply with the following provisions prior to occupancy:
 - a) The number of units permitted by the applicable zone per gross square footage of a site may be increased as follows:
 - i) If dedicated open space which is developed and landscaped equals 50% or more of the total area of the site, a maximum of 10% increase in the number of units may be granted.
 - ii) A maintained playground area with approved equipment such as goalposts, swings, slides, etc., is provided, the number of units permitted may be increased an additional 5%.
 - iii) An approved recreational community building is provided, an additional 10% increase of units may be granted. (Maximum total increase possible through application of this section is 25%).
 - b) There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the complex.
 - c) If the complex or any unit thereof is more than 500 feet from a public fire hydrant, such shall be provided at appropriate locations on a vehicular way and shall conform in design and capacity to the public hydrants in the nearest city.
 - d) A minimum of at least 2,500 square feet plus 100 square feet per dwelling unit shall be provided for a recreation play area, group or community activities. Such area shall be

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

improved with grass, plantings, surfacing, equipment or building suitable for recreational use. The Land Protection Planning Commission may require this area to be protected from streets, parking areas or the like by a fence or equivalent screening. No play area is required if more than 70% of the area is preserved as open space and is sufficiently developed and landscaped.

- e) All such complexes with more than 20 dwelling units shall be located so as to have access on a street designated as a collector unless otherwise approved by the Land Protection Planning Commission.
 - f) All such complexes shall provide both an ingress and egress.
 - g) All roadways and parking areas shall be paved, and roadways shall not be less than 20 feet in width, except as approved by the Land Protection Planning Commission.
 - h) A sight-obscuring fence or evergreen hedge may be required by the Land Protection Planning Commission when such screening is necessary to preserve the values of nearby properties, protect the aesthetic character of the neighborhood or vicinity and provide security for occupants of the subject complex.
 - i) All accessory structures associated with such a complex shall be set back 50 feet from the property line of an abutting single-family residential lot or use.
 - j) Sewer and water facilities shall be provided adequate to serve the occupant's requirements.
10. **Manufactured Home Park:**
- a) The minimum area for a manufactured home park shall be 3 acres.
 - b) The average area of manufactured home sites within the manufactured home park shall not be less than 4,000 square feet, excluding roadways, recreations areas, and other accessory facilities. No manufactured home site shall have an area less than 2,000 square feet.
 - c) A sight obscuring fence or hedge not less than 6 feet high shall enclose the manufactured home park except at points of entry and exit.
 - d) Two parking spaces shall be provided for each manufactured home site. In addition, guest parking spaces shall be provided in every manufactured home park within 200 feet of the manufactured home sites served, at a ratio of one parking space for each two manufactured home sites.
 - e) Development of a manufactured home park shall meet with all the specifications of the Oregon State Department of Commerce.
11. **Manufactured Home Standards:** Manufactured homes permitted outright on individual lots, manufactured home parks, Subdivisions or Planned Unit Developments shall meet the following minimum requirements:
- a) **Insignia of Compliance:** The manufactured home shall conform to the current Oregon State electrical, plumbing, heating, structural codes whose conformance shall be signified by the display of the "Insignia of Compliance" of the State of Oregon, pursuant to and prescribed under applicable State statutes ORS 446.002 and ORS 446.200 and all subsequent amendments thereto.
 - b) **Skirting:** The unit shall have continuous skirting of non-decaying, non-corroding, rodent-proof material. Skirting shall be vented. An 18 x 24 inch access shall be provided in the skirting. Skirting shall be installed within 60 days of the date of issuance of the Development Permit.
 - c) **Storage and Accessory Requirements:** Each manufactured home shall be provided with an accessory building which encloses a minimum of 70 (7 x 10) square feet for accessory storage building and if greater than 120 square feet in are shall be constructed to the International Building Code standards. Construction of required

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- storage building shall be completed within 60 days of the date of issuance of the Development Permit.
- d) Permits: A Development Permit shall be obtained from the Tribal Planning Office prior to the moving and locating of any manufactured home on any tract of land.
12. Radio, Television Tower, Utility Station or Substation:
- a) In a residential zone, all equipment storage on the site may be required to within an enclosed building.
- b) The use may be required to be fenced and landscaped.
- c) The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.
- d) Transmission towers, posts, overhead wires, pumping stations, and similar gear shall be so located, designed, and installed as to minimize their conflict with scenic values.
13. Schools: Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four (4) feet but not more than six (6) feet high shall separate the play area from abutting lots.
14. Temporary Permits for Manufactured Homes: Temporary use permits for manufactured home or trailer house type units may be authorized by the Comprehensive Planning Manager in the following circumstances upon such terms and conditions as prescribed by the Comprehensive Planning Manager.
- a) Temporary use permits may be granted in favor of schools for specified time.
- b) Temporary use permits may be granted in residential zones for relatives of the family residing on the property if the mobile home will be used because of a medical problem requiring the use of such a unit. The existence of a medical problem shall be supported by the certificate of a medical doctor. The permit shall not exceed one year and may only be renewed with another certificate from a medical doctor.
- c) Temporary use permits may be granted in connection with construction projects. The duration of such permits shall not continue beyond the construction period and the permit shall terminate upon occupancy of the building being constructed.
15. Utilities: The erection, construction, alteration, or maintenance by public utility or municipal or other governmental agencies of underground, overhead, electrical, gas, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, may be permitted in any Zone. Utility transmission and distribution lines, poles, and towers, may exceed the height limits otherwise provided for in the Code. However, in considering an application for a public utility use at a public hearing, the Hearings Body shall determine that the site, easement, or right-of-way is located so as to best serve the immediate area, and in the case of a right-of-way or easement, will not result in the uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed, and installed as to minimize their effect on scenic values.

SECTION 17.010 OFF-STREET PARKING:

For commercial, industrial and multi-family uses off-street parking spaces shall be provided and maintained as set forth in this section for all uses.

Commercial, Industrial, P-1 Zone: Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of this code is changed. Improved off-street parking shall mean paved with two inches of paving.

1. Number of Spaces Required. Off-street parking shall be provided as follows:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

USE	REQUIREMENT
a) Residential --	
One, two, and three family dwellings;	2 spaces per dwelling unit
Multi-family dwelling containing four or more DUs:	
Studio or Efficiency Unit	.75 space per unit
1 Bedroom Unit	1.00 space per unit
2 Bedroom Unit	1.50 space per unit
3 Bedroom Unit	2.25 space per unit
4 Bedroom Unit	2.50 space per unit
Apartment-hotel, rooming or boarding house:	.50 space guest parking per dwelling unit
b) Commercial Residential --	
Hotel:	1 space per guest room plus 1 space per two employees
Motel:	1 space per guest room or suite plus 1 additional space for the owner or manager
Club or Lodge:	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
Fraternity, sorority or dormitory:	1 space for each 6 student beds
c) Institutions --	
Welfare or correctional institution:	1 space per 3 beds for patients or inmates
Convalescent Hospital, nursing home, sanitarium, resthome, home for the aged:	1 space per 2 beds for patient or residents
Hospital:	1.50 spaces per bed
d) Places of Public Assembly --	
Church:	1 space per 4 seats or 8 feet of bench length in the main auditorium

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Library, reading room, museum, art gallery:	1 space per 400 square feet of floor area plus 1 space per 2 employees
Pre-school nursery or kindergarten:	2 spaces per teacher
Elementary or Junior High School:	1 space per employee or 1 space per 4 seats or 8 feet of bench length in auditorium or assembly room, whichever is greater
Other auditorium or meeting room:	1 space per 4 seats or 2 feet of bench length. If no fixed seats or benches, 1 space per 60 square feet of floor area
e) Commercial Amusements --	
Stadium, arena or theater:	1 space per 4 seats or 8 feet of bench length
Bowling alley:	6 spaces per lane plus 1 space per 2 employees
Dance Hall or Skating Rink:	1 space per 100 square feet of floor area plus 1 space per 2 employees
f) Commercial --	
Retail store except stores selling bulky merchandise and grocery stores 1,500 square feet gross floor area or less:	1 space per 300 square feet of gross floor area
Supermarkets, grocery stores 1,501 to 4,000 square feet:	1 space per 150 square feet of gross floor area
4,001 square feet and over:	1 space per 100 square feet of gross floor area
Service or repair shops, retail stores and outlets selling furniture, automobiles or other bulky merchandise where the operator can show the bulky merchandise occupies the major area of the building:	1 space per 600 square feet of gross floor area
Bank or office (except medical and dental):	1 space per 300 square feet of gross floor area
Medical or dental office or clinic:	1 space per 150 square feet of gross floor area
Eating or drinking establishments:	1 space per 60 square feet of gross floor area

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

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| Mortuaries: | 1 space per 4 seats or 8 feet of bench length in chapels |
| g) Industrial -- | |
| Manufacturing establishment: | 1 space per employee on the two largest working shifts |
| Storage warehouse; wholesale establishment, rail or trucking freight terminal: | 1 space per 2,000 square feet of floor area |
- h) Other uses not specifically listed above shall furnish parking as required by the Land Protection Planning Commission. The Commission shall use the above list as a guide for determining requirements for said other uses.
2. General Provisions - Off-Street Parking
- a) More than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement of off-street parking shall be the sum of the requirements of the several uses computed separately.
 - b) Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.
 - c) Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwellings. All other off-street parking shall be located on the lot with the use, or if not located on the same lot, shall first be approved as a conditional use. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the use. The burden of proving the existence of such off-premise parking arrangements rests upon the person who has the responsibility of providing parking.
 - d) Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for the storage of vehicles or materials or for the parking of trucks used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.
 - e) Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line or a street right-of-way.
3. Off-Street Parking Lot Design. All off-street parking lots shall be designed in accordance with tribal standards for stalls and aisles as set forth in the following drawings and table:
- a) For one row of stalls use "C" + "D" as minimum bay width.
 - b) Public alley width may be included as part of dimension "D", but all parking stalls must be on private property, off the public right-of-way.
 - c) For estimating available parking area, use 300-325 square feet per vehicle for stall, aisle and access areas.
 - d) For large parking lots exceeding 20 stalls, alternate rows may be designed for compact cars provided that the compact stalls to not exceed 30 percent of the total required stalls. A compact stall shall be 8 feet in width and 17 feet in length with appropriate aisle width.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

SECTION 17.020 STANDARDS FOR NET METERING FACILITIES

1. Wind Turbines.
 - a. Setbacks. Wind turbines, including freestanding poles or towers, turbine and blades, shall not be located closer to property lines, public roads, and residences not served by the wind turbine, than twice the maximum height of the pole/tower, turbine and blades at their apex. Building-mounted turbines are prohibited.
 - b. Noise.
 - i. The noise level from any wind turbine shall not exceed 60 dB at the property line or exterior of any residence or business not served by the wind turbine.
 - ii. A noise report shall be submitted that states the hourly average noise level at the closest property line to the wind turbine and residences or businesses not served by the wind turbine, the manufacturer's rated sound level of the turbine including the distance between the wind turbine and the closest property line and residences or businesses not served by the wind turbine.
 - c. Review Process. All wind turbines shall be subject to the Site Plan Review Process and Criteria in Chapter 10. Additional requirements may be placed in order to facilitate achievement of the criteria.
 - d. Construction. Any areas disturbed during construction shall be restored to their pre-construction natural state or improved to ensure that disturbed areas do not become habitat to noxious weeds.
 - e. Dismantling/Decommissioning. Upon discontinuance of use as a net metering facility, the turbine, tower and all related accessory items, including but not limited to concrete pads, guy wires, and above and/or below-ground utility connections, shall be dismantled and removed from the property and the site restored to its pre-construction condition.
2. Solar. Solar panels mounted on the roof of a building less than fifty years old that is conforming to height shall not be required to go through the site plan review process in Chapter 10. Otherwise, the addition of solar panels shall be subject to the site plan review process in Chapter 10.

CHAPTER 18. SIGN REGULATIONS

SECTION 18.100 PURPOSE:

The purpose of this chapter is to regulate the construction, erection, maintenance, electrification, illumination, type, size, number and location of signs in order to:

1. Protect the health, safety, property and welfare of the Reservation;
2. Maintain the neat, clean, orderly and attractive appearance of the Reservation;
3. Provide for the safe erection and maintenance of signs;
4. Prohibit signs that demand, rather than invite public attention;
5. Provide equity and equality in displaying signs in harmony with the zoning and district location;

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

6. Preserve and enhance the unique scenic beauty and the culture, business, recreational, educational, and tourist potential of the Umatilla Indian Reservation and the surrounding area; and
7. Encourage participation in Tribal and other public elections.

SECTION 18.200 SCOPE OF SIGN REGULATIONS:

This sign regulation shall apply to all signs located within the boundaries of the Umatilla Indian Reservation. A sign may be erected, placed, established, painted, created, or maintained on the Reservation only in conformance with the standards, procedures, exemptions, and other requirements of this code.

SECTION 18.300 [RESERVED]

SECTION 18.400 PROHIBITED SIGNS:

(Applies to all zones within the Umatilla Indian Reservation)

1. No sign shall be located in a manner or place so as to constitute a hazard to traffic.
2. No sign shall be attached, located, or painted on a parked vehicle or trailer for the purpose of providing advertisement of products or directing people to a business or activity.
3. There shall not be any moving sign or device to attract attention, all or any part of which moves by any means, including motion by the movement of the atmosphere, or by electrical or other means, including but not limited to, rotating beacons, pennants, flags, propellers, strobe lights, or discs, whether or not any such device has a written message. This shall not include the display of merchandise such as kites, wind chimes, etc. that are sold on the premises. (The two (2) rotating beacons at Arrowhead truck stop and the spotlights at the Wildhorse Gaming Facility shall be listed as non-conforming signs allowed to continue under the provisions of the non-conforming signs section of this chapter.)
4. No signs shall be painted on a roadway, trees, fences, rocks, or other signs.
5. No portable signs or banners shall be permitted, except portable electronic readerboard signs or banners placed for one period of no more than forty-five (45) days for emergency purposes, to announce the opening of a new business, or the change of management or ownership of an existing business.
6. Marquee signs shall be prohibited.
7. Inflatable signs.

SECTION 18.440 PERMANENT SIGNS ALLOWED WITHOUT A PERMIT:

A permit shall not be required for the following types of signs provided they meet all the requirements of this Code: (Applies to all zones within the Umatilla Indian Reservation)

1. Directional sign.
2. Municipal, school, recreational and civic club sponsored signs, and school and park signs that do not exceed six (6) square feet of sign surface area per sign.
3. Direction, identification, public service and welcome signs constructed by and for the Tribe.
4. One church identification sign per church. These signs may be located on private property with written permission of the owner, at the nearest intersection of the major thoroughfare or public street to the site of the church. The signs shall be no greater than twelve (12) square feet per side of sign up to a maximum of twenty-four (24) square feet of surface area for the entire sign.
5. Private residential signs indicating the name, box, or house number of a particular residence no larger than four (4) square feet.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

6. Hunting safety zone signs, that do not exceed four (4) square feet of sign surface area and are otherwise consistent with Section 5.12 of the CTUIR Fish and Wildlife Code.
7. Sign erected by a governmental agency to regulate, control or direct traffic; including signs indicating transportation facilities and markings on public roads. Such signs may be illuminated, flashing or moving as required for public safety. Signs erected by a governmental agency which convey information regarding a public service or the location of a public facility may also be illuminated.
8. Signs required by law including, but not limited to, building permits, exit signs, etc.
9. Signs which warn of hazards to life, limb and property such as high voltage electrical equipment and explosives.
10. The display of the flag of the Confederated Tribes of the Umatilla Indian Reservation, flag of the State of Oregon, or the flag of the United States, or any flags representing departments or divisions of any of those governments. The Board of Trustees may authorize the unrestricted flying of other government flags to honor visiting dignitaries from other states or nations.

SECTION 18.460 PERMANENT SIGNS ALLOWED WITH A PERMIT:

The following permitted signs must have a valid sign permit issued by the Tribal Planning Office.

1. Permanent signs allowed with a permit in the C-D, C-D Overlay, and I-D Zones:
 - a. Free-Standing Commercial Sign: Detached or free-standing signs shall not exceed thirty-two (32) square feet in sign surface area per side up to a maximum of sixty-four (64) square feet of sign surface area for the entire sign. All detached or free-standing signs shall be located on the immediate premises of the advertised commercial establishment and shall be no closer than six (6) feet to any street pavement. The signs shall be setback from the property line not less than ten (10) feet. No freestanding sign shall be greater than twenty-five (25) feet in height measured from the adjacent road grade to the uppermost point of the sign.
 - b. Commercial Ground Sign: Ground signs shall be erected not to exceed ten (10) feet in height measured from the ground to the top of the sign, and not to exceed sixty-four (64) square feet of sign surface area. A ground sign shall be so located as to not obstruct the view of a sign on adjoining property and/or the same property. The signs shall be setback from the property line not less than ten (10) feet.
 - c. Sign Surface Area of Commercial Wall and Roof Sign: The maximum area of a sign attached to any building shall be calculated as follows: The total area of all signs for each unit of occupancy in a building shall not exceed two (2) square feet per linear foot of each exterior building wall facing a public street or facing a private accessway. Only one wall or roof sign may be erected per unit of occupancy. The size of the wall or roof sign shall be based only on the linear distance of the main wall which faces the principal street or access.
 - d. Master Sign Plan: No permit shall be issued for an individual sign for a resort, hotel, or motel, gaming facility, gasoline service station or franchised restaurant or food service business unless and until a master sign plan for the property on which the sign will be erected has been submitted and approved by the Tribal Planning Office as conforming with this section. The owners of two or more contiguous properties may submit a master sign plan as a common plan.
 - A. The master sign plan shall contain the following:
 - i. an accurate site plan;
 - ii. an accurate indication on the site plan of the proposed location of each present and future sign, except for incidental signs.
 - B. The businesses requiring a master sign plan are allowed two (2) of the three (3) sign types listed:

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

- i. One (1) roof or wall sign that complies with the area computation stated above (gas stations may also have up to four (4) wall signs advertising the gas brand served, not exceeding thirty-two (32) square feet of sign surface area);
 - ii. One (1) freestanding sign that does not exceed thirty-five (35) feet and three hundred fifty (350) square feet of surface area; or
 - iii. Two (2) ground signs not exceed ten (10) feet in height measured from the ground to the top of the sign, and not to exceed sixty-four (64) square feet of sign surface area. The signs shall be setback from the property line ten (10) feet.
2. Permanent signs allowed with a permit in the AG-1, AG-2, AG-3, R-1, R-2, and P-1 Zones:
 - a. Home Business Identification Sign: Each home business shall be allowed one (1) identification sign. Such sign shall not exceed twenty-four (24) square feet of total sign surface area, and shall be attached to the house or setback ten (10) feet from the property line.
 - b. Commercial Business Identification Sign (not including a home occupation): A commercial business, that is permitted within the specific zone, shall be allowed one (1) identification sign (ground, wall, or freestanding), not exceeding a height of twelve (12) feet and sixty-four (64) square feet of sign surface area. The signs shall be setback from the property line not less than ten (10) feet.
 - c. Each subdivision, unified housing development, or mobile home park, shall be allowed one (1) free-standing sign per entrance. Such sign shall be no larger than sixteen (16) square feet of sign surface area per side of sign up to a maximum of thirty-two (32) square feet of sign surface area per sign. Such signs shall not exceed twenty (20) feet in height.
3. Billboards:
 - a. Five billboard signs are allowed on the Reservation. The billboards shall be restricted to the following locations:
 - i. three (3) along Interstate 84,
 - ii. one (1) along State Highway 11,
 - iii. one (1) along State Highway 331 north of Mission.
 - b. Billboards shall conform to the Uniform Building Code standards for wind loading, electrical, and material construction.
 - c. Billboards shall not exceed thirty (30) feet in height nor eight hundred (800) square feet of sign surface area per side.
 - d. Billboards shall be dedicated to on-Reservation advertising, except that billboards with two or more sides shall dedicate at least half of the advertising to on-Reservation products and services.
 - e. The distance between the public right-of-way and the closest edge of the billboard shall be no more than one hundred (100) feet.
 - f. Billboards may only be erected along Interstate 84, State Highway 11, and State Highway 331.
 - g. Existing billboards that otherwise meet the provisions of this chapter may be replaced at their existing size, height and location upon issuance of a permit.

SECTION 18.480 TEMPORARY SIGNS ALLOWED WITHOUT A PERMIT:
(In all zones within the Umatilla Indian Reservation)

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

1. Construction signs used prior to and during construction to identify a contractor or developer meeting the following requirements:
 - a. Shall be either attached to the building or affixed to a secure temporary post;
 - b. Shall be no greater than twenty-four (24) square feet per side of sign up to a maximum of forty-eight (48) square feet of surface area for the entire sign; and
 - c. Shall be removed upon completion of the construction project.
2. Political signs adhering to the following standards:
 - a. All such signs may not be placed more than 45 days prior to the election and must be removed within 15 days following the conclusion of the campaign;
 - b. No temporary political sign shall cause unsafe driving conditions;
 - c. Temporary political signs are allowed on private property with the permission of the property owner;
 - d. Temporary political signs on private property shall be no greater in size than sixteen (16) square feet per side of sign up to a maximum of thirty-two (32) square feet of sign surface area for the entire sign;
 - e. Temporary political signs on private property must be secured by attaching to a building, fence posts or other immovable objects;
 - f. For each election, the Board of Trustees may designate specific CTUIR-owned lands as a Public Square where temporary political signs can be placed for 45 days prior and up to 15 days after the conclusion of the campaign. Such Public Squares may be parks, plazas, rights-of-way, surplus areas, etc.;
 - g. No temporary political sign shall be placed within 75 feet of an entrance to a voting place established by the CTUIR Election Commission for a CTUIR election, even if such location has also been designated as a public square;
 - h. Temporary political signs may be allowed in rights-of-way but may not be located within five feet of the roadway or edge of pavement;
 - i. Temporary political signs located in rights-of-way, or in a duly designated Public Square shall be no greater than four (4) feet per side of sign up to a maximum of eight (8) square feet of sign surface area for the entire sign;
 - j. Temporary political signs located in a right-of-way, or in a duly designated Public Square shall not be permanently affixed to public property and may not be constructed in such a manner as requiring soil to be dug or excavated, or requiring a post driver. Generally, these signs should be the type on metal stakes that can be hand pressed into the ground;
 - k. Temporary political signs located in a right-of-way, or a duly designated Public Square shall not be constructed or affixed in such a manner as to cause damage to public property; and
 - l. No temporary political signs may be arranged in such a manner as to create a chained message; such as a series of signs with one word on each sign that reads as one message.
3. All other temporary signs shall require approval by the Tribal Planning Office, and shall be of a size, height, and duration that is consistent with the letter and spirit of this Code.

SECTION 18.490 SIGN PERMIT REQUIREMENTS:

All signs placed within the Boundaries of the Umatilla Indian Reservation, except those listed in sections 18.440 and 18.480 above, shall require a permit issued by the Tribal Planning Office. Sign permits are void one year from the date of issue if installation has not occurred. Any sign requiring a permit that is placed after the adoption of this Code without permit approval shall be in violation of this Code. If such a sign is otherwise in full compliance with the requirements of this Chapter, an

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

after-the-fact permit may be issued by the Tribal Planning Office upon payment of double the standard application fee set forth in Chapter 19.

Sign permit applications must include the data set forth below or will not be accepted by the Tribal Planning Office:

1. Name, address and telephone number of the applicant and property owner, sign owner and erector.
2. Location of the sign or structure.
3. Scaled drawing showing position of the sign or advertising structure in relation to the nearest buildings, structures, public streets, rights-of-way and property lines.
4. Plans and specifications and method of construction or attachment to the building or in the ground, including all dimensions, showing all light sources.
5. Signature of the applicant and when applicant is not the property owner, the signature of the owner or his agent, also.
6. Any other information as may be required by the Tribal Planning Office.

SECTION 18.500 NON-CONFORMING SIGNS:

Where an otherwise lawful sign is rendered unlawful by the adoption of this Chapter or an Amendment thereto, such signs may be continued only subject to the following provisions:

1. No non-conforming signs may be enlarged or altered in any way which increases its non-conformity.
2. Should any non-conforming sign be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.

SECTION 18.600 OBSOLETE OR ABANDONED SIGNS:

1. Signs which advertise or pertain to a development complex, business, product, service, commodity, or a purpose which no longer exists or that has not been in use for thirty (30) days or more shall be deemed to be an obsolete or abandoned sign. Signs which are associated with a seasonal business shall not be considered obsolete or abandoned provided there is clear intent to continue the business in the upcoming season.
2. Obsolete or abandoned signs are prohibited and shall be removed by the owner within thirty (30) days of termination of the business.
3. If the owner of an abandoned or obsolete sign fails to remove such sign, the result shall be a violation of this Code. See the enforcement section for the procedure and penalties.

SECTION 18.700 SIGN CONSTRUCTION, MAINTENANCE, AND DESIGN:

1. Any sign not in accordance with these standards shall be subject to the procedures for non-conforming signs set forth in this Code.
2. All signs shall be constructed of materials that will not rapidly deteriorate, fade, fall apart, or in any way become a threat to the health, safety, and welfare of the Reservation residents, and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
3. All signs shall be securely fastened, anchored, and generally placed to withstand adverse weather conditions.
4. No free-standing sign shall be constructed or placed closer than six (6) feet to any street or ten (10) feet of a right-of-way and shall not be located in such a manner as to constitute a traffic or safety hazard.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

5. Illuminated signs shall be by an indirect white or amber light, shall be shielded and directed solely at the sign. Internally lighted signs shall be by white or amber light.
6. The owner of each sign shall be responsible for maintaining the area around the sign, including cutting of weeds and grass, and the removal of all trash and litter.
7. In the event one sign is placed over another, the original shall be removed or completely covered so that the original sign cannot be seen.
8. All signs, supports, braces, poles, wires, and anchors shall be kept in good repair. They shall be maintained in clean and safe condition, free from deterioration, missing parts, and peeling paint.

CHAPTER 19. FEE SCHEDULE

Section 19.100 ADMINISTRATIVE PERMITS:

- | | | |
|----|--|---|
| 1. | Development Permits | Based on International Building Codes fee schedule. |
| 2. | Development Permit for a land use not requiring a building code inspection | \$25.00 |
| 3. | Forest Practices Permit | \$25.00 |
| 4. | Home Occupation Permit | No Fee |
| 5. | Removal/Fill Permit | \$35.00 |

Section 19.200 PUBLIC HEARING REQUESTS:

- | | | |
|----|--------------------------------------|----------|
| 1. | Conditional Use | \$100.00 |
| 2. | Variance | \$100.00 |
| 3. | Zone Change | \$150.00 |
| 4. | Planned Unit Development | \$150.00 |
| 5. | Amendment to Comprehensive Plan | \$150.00 |
| 6. | Land Development Code Text Amendment | \$150.00 |

Section 19.300 SIGN REGULATIONS:

- | | | |
|----|------------------------------------|---------|
| 1. | All signs requiring a permit | \$50.00 |
| 2. | Home Business Identification signs | \$10.00 |
| 3. | Residential Subdivision Signs | \$10.00 |

Section 19.400 SUBDIVISION REQUESTS:

- | | | |
|----|------------------|----------|
| 1. | Minor Partitions | \$35.00 |
| 2. | Major Partitions | \$35.00 |
| 3. | Subdivision | \$150.00 |

Section 19.500 APPEALS REQUESTS:

- | | | |
|----|----------------------|---|
| 1. | Appeal Filing -- | \$50.00 |
| 2. | Appeal Transcript -- | Total cost shall be payed by the appealing party. |

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

APPENDIX A

LEGISLATIVE HISTORY

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

LAND DEVELOPMENT CODE

LEGISLATIVE HISTORY

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation enacted the Umatilla Reservation Interim Zoning Ordinance of 1973 in December of 1973. The Interim Zoning Ordinance was amended several times.

The Board of Trustees enacted the Land Development Code in Resolution No. 83-74 (August 24, 1983). The Land Development Code repealed and replaced the Interim Zoning Ordinance.

The Land Development Code was amended seven times, by the following resolutions: Resolution No. 88-08 (November 5, 1987), Resolution No. 93-12 (March 17, 1993), Resolution No. 94-63 (August 17, 1994), Resolution No. 94-71 (September 21, 1994), Resolution No. 95-86 (October 4, 1995), Resolution No. 95-87 (October 4, 1995), Resolution No. 96-47 (June 5, 1996).

The Board of Trustees enacted a comprehensive revision of the Land Development Code in Resolution No. 97-08 (February 19, 1997). The revised Land Development Code was subsequently amended in Resolution No. 99-52 (July 7, 1999).

In preparation for publication in the *Statutes of the Confederated Tribes of the Umatilla Indian Reservation, July 1999 Compilation*, a variety of minor editorial alterations were made to the Code which did not alter the meaning of any portion of the Code. These are fully described in the Appendix A to the version of the Land Development Code that was published in the *July 1999 Compilation*, which was approved by the Board of Trustees in Resolution No. 99-63 (July 28, 1999).

Since publication of the *July 1999 Compilation*, the Land Development Code has been amended five times: by Resolution No. 00-04 (January 24, 2000), Resolution No. 00-38 (May 15, 2000), Resolution No. 08-008 (February 25, 2008), Resolution No. 08-069 (July 21, 2008), and Resolution 08-101 (October 13, 2008).

In 2008, the Board enacted several amendments to the Land Development Code. In Resolution 08-008 (February 25, 2008), the Board amended subchapters G and H of the Code and repealed Subchapter I, removing the Commercial Development Overlay Zone from the Code. Resolution 08-008 also amended the zoning map.

In Resolution 08-069 (July 21, 2008), the Board amended section 4.005 of the Code to adopt the International Building Code in place of the outdated Uniform Building Code.

In Resolution 08-101 (October 13, 2008), the Board amended subchapter A (Exclusive Farm Use Zone), B (Farm Pasture Zone), and L (Big Game Winter Grazing Zone).

In Resolution 08-121 (November 10, 2008), the Board amended subchapter G, section 3.190(5)(a) to correct an error in Resolution 08-008.

In Resolution 09-003, (January 26, 2009), the Board amended subchapter G, section 3.190(1) to remove the Industrial Development Zone conditional use concerning the processing, packaging, and storage of food or beverages involving distillation, fermentation, slaughtering, or rendering of fats and oils. Resolution 09-039 (April 6, 2009) amended section 3.185(22) to include wineries and breweries as a permitted use in the Industrial Development Zone. In Resolution 09-145, (December 7, 2009), the Board approved a set of amendments to subchapter G, sections 3.170-3.190 that clarified the scope of permitted and conditional uses in the Industrial Development Zone.

In Resolution 10-015 (March 1, 2010), the Board approved amendments to the Commercial Development Zone to increase the maximum height for buildings or structures and to add several additional permitted uses within that zone. In Resolution 10-105 (December 27, 2010), the Board approved extensive amendments to the Code in furtherance of being designated by the Federal Emergency Management Agency (FEMA) as a participating community in the National Flood

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Insurance Program. This set of amendments renamed the Flood Hazard Subdistrict as the Flood Hazard Overlay Zone, and altered many of the standards governing uses within the Flood Hazard Overlay Zone to conform to FEMA minimum standards for NFIP participation.

In Resolution 11-062 (June 27, 2011), the Board of Trustees amended several provisions of the Land Development Code to implement the CTUIR Forest Management Plan. As part of this process, the Big Game Winter Grazing Zone was renamed the “Big Game Grazing Forest Zone.”

In Resolution 12-053 (August 6, 2012), the Board of Trustees amended the Land Development Code to (1) prohibit the siting of commercial wind generation facilities on the Umatilla Indian Reservation and (2) adopt standards for the siting of smaller alternative energy generation facilities intended to offset Reservation residents’ energy costs.

In Resolution 13-005 (June 3, 2013), the Board of Trustees amended the Land Development Code to expressly adopt the International Residential Code, which had been implemented by the Tribal Planning Office since adoption of the Intentional Building Code in 2008. The International Residential Code was adopted with the exception of Section R313, which otherwise requires new single and two-family dwellings to be constructed with Automatic Fire Sprinkler Systems.

In Resolution 14-001 (January 13, 2014), the Board of Trustees amended the Land Development Code to clarify the scope of Forest Practices which are subject to a permit exemption under section 16.050 and to otherwise clarify the Code’s requirements pertaining to Forest Practices.

In Resolution 14-014 (March 10, 2014), the Board of Trustees amended the Land Development Code to remove and/or revise several anachronistic provisions relating to functions no longer performed by the Natural Resources Commission [Note – the Natural Resources Commission was renamed the “Land Protection Planning Commission” in Resolution 17-054 (7-24-2017)] and which are now performed by other Tribal committees and commissions, and to clarify the purpose and responsibilities of the Commission. Resolution 14-014 enacted corresponding changes to the Bylaws of the Commission’s Bylaws.

In Resolution 17-054 (July 24, 2017), the Board of Trustees amended the Land Development Code to accommodate political campaign signs in a manner consistent with the Confederated Tribes’ Election Code. Additionally, Resolution 17-054 changed the name of the Natural Resources Commission to the “Land Protection Planning Commission.”

ADDITIONAL INFORMATION:

Resolution No. 94-30 (May 4, 1994) repealed the Tribes’ Sign Code (which had been enacted in Board Resolution No. 76-49 (May 17, 1976) and replaced that Code with four guidelines, with final approval of all signs by Board of Trustees. Resolution No. 95-87 (October 4, 1995) superseded Resolution No. 94-30 by adding a new chapter on signs to the Land Development Code.

In Resolution No. 68-8 (October 31, 1967), the Board adopted the National Electric Code, Uniform Housing Code, National Plumbing Code and the Uniform Building Code. Unfortunately, this resolution did not enact a Tribal ordinance or code implementing those codes, and no inspection or enforcement mechanism was identified. This problem was repeated when the Board enacted the original Land Development Code in Resolution No. 83-74. Section 4.000 of the Land Development Code adopted the Uniform Building Code, but provided no formal inspection or enforcement mechanism. This matter was further confused when the Board enacted the Fire Prevention and Emergency Services Code in Resolution No. 93-38 (August 18, 1993). Section 2.045 of that code adopted the Uniform Building Code and directed the Tribal Fire Department to implement that code. Resolution No. 93-38 specifically rescinded “the provisions of any prior Tribal ordinance, regulation or code to the extent that that they are in conflict with the Fire Prevention and Emergency Services Code.” Thus, the new Tribal Fire Prevention and Emergency Services Code had the effect of repealing section 4.000 of the Land Development Code.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

Resolution No. 96-39 (May 15, 1996) altered this situation again. This resolution adopted the Uniform Building Code, National Electric Code and other building standards and delegated responsibility over administering and enforcing such codes to the Tribal Planning Office. Resolution No. 96-39, however, did not take the form of a Tribal code or ordinance, or an amendment to an existing Tribal code. It also did not specifically mention section 2.045 of the Fire Prevention and Emergency Services Code. Nevertheless, Resolution No. 96-39 necessarily repeals section 2.045 of the Tribes' Fire Prevention and Emergency Services Code.

When the Board enacted a revised Land Development Code in Resolution No. 97-08 (February 19, 1997), the text of the original section 4.000 was renumbered to 4.005, but otherwise was unchanged. This had the effect of re-instituting the adoption of the Uniform Building Code under the Land Development Code. No mention was made of the other uniform codes adopted by Resolution No. 96-39 (or Resolution 68-8). Likewise, the Land Development Code still contains no discussion of inspection or enforcement authorities.

Resolutions No. 96-39 and No. 97-08 do not appear to repeal sections 2.040 and 2.050 of the Fire Prevention and Emergency Services Code, which adopt the Uniform Fire Code and direct the Tribal Fire Department to implement the Uniform Fire Code.

In 2008, Resolution No. 08-069 (July 21, 2008) amended the Land Development Code to both resolve this issue and to adopt the current International Building Code and International Fire Code. Resolution No 08-070 (July 21, 2008) amended the Fire Prevention and Emergency Services Code to clarify that the Umatilla Tribal Fire Department is responsible for inspections to ensure compliance with the International Fire Code on the Umatilla Indian Reservation. While this clarifies the inspection and enforcement authority respecting the International Fire Code, the Land Development Code still does not mention enforcement and inspection authority for the International Building Code. Further, Resolution 08-070 expressly supersedes and repeals all provisions in prior resolutions adopting building or fire codes, including Resolution No. 96-39. While this clearly nullifies Resolution 96-39 insofar as it adopted the Uniform Building Code and Uniform Fire Code, it is less clear whether the language in Resolution No. 96-39 directing the Tribal Planning Office to administer and enforce the Uniform Building Code remains in force to authorize the Tribal Planning Office to administer and enforce the newly adopted International Building Code.

The Umatilla County Comprehensive Plan was acknowledged by the Land Conservation and Development Commission of the State of Oregon on October 24, 1985. The County's plan provides that land use planning within the diminished boundary of the Umatilla Indian Reservation shall be exclusively administered by the Confederated Tribes. In Resolution 90-54 (September 19, 1990), the Board of Trustees authorized the Chairman of the Board to sign a Memorandum of Understanding (MOU) with Umatilla County. That MOU records the agreement of the Tribes and the County that "all land use planning and regulations of lands situated inside the boundaries of the Umatilla Indian Reservation located within Umatilla County shall be administered by the Confederated Tribes of the Umatilla Indian Reservation under their duly adopted Land Development Code and Subdivision Ordinance." A copy of the MOU is attached to the Land Development Code as Appendix B. The Tribes' Subdivision Manual and Forest Practices Manual are available from the Tribal Planning Office.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution No. 17-054 (July 24, 2017)*

APPENDIX B

MEMORANDUM OF UNDERSTANDING

Between the Confederated Tribes
of the Umatilla Indian Reservation
and
Umatilla County, Oregon