

**REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY OF BANDON  
THURSDAY, JANUARY 28, 2021 – 7:00 PM**

**MEETING AGENDA**

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Link to ZOOM Meeting  
<https://us02web.zoom.us/j/2157059460?pwd=cG9pU2poWHJjMWt2ZThsUmZDdENnQT09>

Meeting ID: 215 705 9460 Passcode: 1891

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**1.0 CALL TO ORDER**

**1.1 ROLL CALL**

**2.0 CONSENT AGENDA**

- 2.1 MINUTES: Planning Commission Regular Meeting and Work Session – November 19, 2020**  
**MINUTES: Planning Commission Work Session – December 16, 2020**

**3.0 PUBLIC COMMENT**

**Opportunity for Citizens to speak on issues NOT on the Agenda. TIME LIMIT - 3 MINUTES**

**4.0 PUBLIC HEARINGS**

- 4.1 Process Ordinance – Planning Application 20-129**

**5.0 DISCUSSION/OTHER**

- 5.1 Upcoming Planning Commissioner Trainings**  
**5.2 Future Land Use Code Updates**

**6.0 COMMISSIONER COMMENTS**

**7.0 ADJOURN**

**Regular Meeting of the Planning Commission  
via Zoom and Facebook live streaming  
City of Bandon  
November 19, 2020**

**COMMISSION:**

- ☒ Paul Fisher, Vice Chair
- ☒ Sally Jurkowski, Commissioner
- ☒ Gordon Norman, Commissioner
- ☐ Patrick Salandro, Commissioner
- ☒ Gerald Slothower, Commissioner
- ☒ Donald Starbuck Commissioner

**STAFF:**

- ☒ Dan Chandler, City Manager
- ☒ Dana Nichols, Planning Manager
- ☐ Megan Lawrence, City Planner

**REGULAR MEETING**

**1.0 CALL TO ORDER**

**1.1 Roll Call**

Nichols called the meeting to order at 7:04 p.m. via Zoom and live Facebook streaming, after establishing each Commissioner's connection. Roll Call was taken as indicated above.

**2.0 CONSENT AGENDA**

**2.1 Minutes: Planning Commission Regular Meeting—October 22, 2020**

Slothower moved to approve the Consent Agenda for the October 22, 2020 Regular Planning Commission Meeting Minutes. The motion was seconded by Jurkowski and the Minutes were approved with no corrections or additions. The voice vote was 5:1 (absent: Salandro).

**3.0 PUBLIC COMMENTS—Opportunity for Citizens to speak on issues not on the Agenda**

Several members of the public participated in the Zoom virtual meeting, but none of them offered comments.

**4.0 COMMISSIONERS' COMMENTS**

Starbuck apologized for having technical difficulties beyond his control that interfered with his participation in the Commission's October Zoom meeting.

Norman wondered if Nichols would be addressing an email that Fisher had sent the Commissioners prior to the meeting. She replied that she would do so at the conclusion of the Commissioners' Comments.

Slothower and Jurkowski did not have comments.

Fisher remarked that the Commission had not addressed any issues since February, but he believed the City Council had addressed several planning issues at its meetings during that time. That was

what prompted him to send the email Norman had mentioned. Fisher wondered “why so much was going straight to the Council and not through the Commission.”

Nichols began by pointing out that she did not use the “Reply All” command in responding to Fisher’s email, because that could put the Commissioners at risk of holding a “serial meeting,” which potentially could be deemed a public meeting.

Nichols noted that Fisher brought up two issues in his email that the Council had recently addressed. One was a request to vacate an alley and the other involved “landlocked lots.” Fisher had asked when the Commission would know the results and why the City had bypassed the Planning Commission in deciding those issues.

Nichols clarified that the vacation of City rights-of-way was a function of the City Recorder and the City Council, as directed by Oregon Revised Statutes (ORS). Because City-owned property was involved, it did not come before the Planning Commission.

Regarding the landlocked or “orphan” lots, Nichols explained that these were properties with platted rights-of-way abutting them but no physical street present. She stated that Staff had recently received two pre-applications involving that circumstance, and they sought the Council’s interpretation of ordinances or resolutions pertaining to paving City streets. Nichols said it was not a planning issue, because there was already Code in place, and Staff needed information on how the Code had been interpreted in the past. It turned out that there was a resolution passed in 2008 that provided for limited exceptions to street construction standards and was part of the City’s Transportation System Plan (TSP). Nichols told the Commission that no decision had been made at the Council meeting and that there had only been a discussion of how to help property owners through the planning process if their lot required construction of a paved street.

Fisher asserted that such lots were not actually landlocked, since they abutted streets. Nichols agreed, saying Staff preferred calling them orphan lots because they would have to pave a street that might go past another lot in order to access their house. Illustrating it in other terms, she described an existing paved street leading up to two lots that became an unpaved platted street. The paved street would have to be extended to reach the back lot at the owner’s expense. Nichols added that it would be expensive to pave a street to the City’s standards, especially when it had to be extended past another lot to reach your lot. It was such conditions that caused Staff to consult with the Council.

Fisher commented that Jurkowski could personally attest to the expense involved, and she did. He asked if the owner of the property in between would benefit if you were required to put a street in past their house. Nichols pointed out that the front lot already had access to a paved City street, so there was only one property owner who would benefit. But then it would take a good deal of paving to reach their lot. She added that there were not very many similar scenarios in Bandon, and that was one reason Staff sought the Council’s guidance. In the process, she learned about the 2008 Council resolution that amended two previous resolutions concerning exceptions to the City’s street standards.

Fisher recalled that at one time the City had been stringent about curbs, sidewalks, gutters, and such, to the point of requiring them on someone’s property on North Avenue where they were of no benefit to anyone else.

Responding to Fisher’s earlier remark that the Commission had not done much during the previous nine months, Nichols reminded him that there had been a period of staff transition since her return to the Planning Department. She stressed that the Work Session that was to follow the Regular Meeting would cover some of the issues she hoped the Commission would be working on in 2021, and that Staff did not intend for future Commission meetings to have nothing on the agenda.

Concluding the Regular Meeting, Nichols mentioned the presentation made by Shoreline Education for Awareness (SEA) at the Commission's August 2020 meeting, where SEA had requested a letter of support for the designation of Coquille Point as a Marine Garden. She had drafted a letter to SEA from the Planning Department, expressing the Commission and Staff's appreciation for coming and speaking to them. Nichols said SEA had produced some information that will accompany the City's newsletter in January.

## **5.0 ADJOURN**

Nichols adjourned the Regular Meeting at 7:17 p.m.

## **WORK SESSION**

### **1.0 ROLL CALL**

Nichols convened the Work Session immediately following the Regular Meeting, and the Roll Call was the same as above.

### **2.0 2021 PLANNING COMMISSION WORKPLAN**

Nichols began the discussion with a PowerPoint presentation covering goals for the Planning Commission's 2021 calendar year. She observed that the workplan reflected what Staff intended to accomplish and was aimed at matching the City Council's goals and reflecting the interests of the Commissioners.

Improving Planning Department processes and Code clean-up topped the Staff's priorities for the coming year. Nichols emphasized the need to streamline the Municipal Code, where there is much confusion due to overlapping and repeated information pertaining to the various zones in the City. One aspect of cleaning up the Code would be to rearrange its language into charts and tables to make it easier to read, which has become a common practice in other cities.

Nichols said Staff would also like to separate land use actions into four types, which have also been acknowledged by other cities:

- Type I: Ministerial—essentially a Staff review, with no discretion and no notice given, because an application either meets the criteria or it does not.
- Type II: Administrative—generally the Planning Director's judgment, with public notice provided after the decision has been made; the Certificate of Appropriateness is an example.
- Type III: Quasi-Judicial—public notice is given, and the Planning Commission holds a Public Hearing, or sometimes it is conducted by a Hearings Officer; for example, for Conditional Use Permits.
- Type IV: Legislative—Zone Map Amendments or Code Amendments require public noticing and Public Hearings before the Planning Commission and the City Council.

Nichols identified housing as another priority category for planning in 2021. She said a Code audit had been done in 2018 by consultants hired by the Department of Land Conservation and Development (DLCD). They looked for clear and objective standards and areas for improvement in

the City's Municipal Code. In part, that resulted in the Planning Commission working on an update of the Planned Unit Development (PUD) Ordinance.

Nichols stated there were a number of recommendations resulting from the audit that had not been addressed, and she felt it would be valuable to go through the Code systematically and update those items. In particular, she noted that some of the Code's discretionary language needed to be replaced by clear and objective language that meets the State's requirements. Staff would be combing the Code for areas of improvements and bringing those sections before the Commission.

Updating the City's Accessory Dwelling Unit (ADU) Ordinance was among the housing-related actions Nichols suggested the Commission could take in 2021. After the City adopted its existing ordinance, the State revised its ADU regulations, stating that Cities could no longer require owner-occupancy of the primary residence on a lot with an ADU and could not require a parking minimum. So, the language of Bandon's ADU Ordinance may need to be adjusted accordingly.

Fisher asked if the State had issued any directives regarding System Development Charges (SDCs) for ADUs.

Nichols noted that the current ADU Ordinance limits an ADU to no more than 40 percent of the size of the primary dwelling, with SDCs tied to that percentage. She had not heard anything from the State that prohibited charging SDCs for ADUs.

Fisher pointed out that Bandon's ordinance already did not require owner-occupancy but did have a parking requirement.

Nichols told the Commissioners that other changes could be made to the ADU Ordinance while they are addressing the State's policies. She said she could provide examples of ADUs that had been approved since the City adopted its ordinance.

Nichols encouraged discussion of Oregon House Bill 2001—legislation that promoted more affordable housing choices—considering Bandon's need for more housing. She hoped the Commission would consider adding more housing types to the Code. The auditors found that the City's R-1 and R-2 zones were nearly identical, except multi-family dwellings were permitted outright in R-2 zones but were allowed as Conditional Use in R-1 zones. Nichols advised that adding more housing types might help differentiate between those two zones and allow for more housing options.

Changes to permitting and processing continued to be on the planning agenda. Already, permit requirements for fences and temporary sheds were being phased out due to the excessive processing time involved. Nichols remarked that Staff had not seen many people building illegal fences, adding that Code specifications still applied when no permit was required. She said the City would generally like to make the home-building process easier.

Another housing-related project for 2021 would be to review the Zoning codes to ensure correct zoning designations in every area of Bandon. Nichols mentioned that the CD-1 zoning in the Seabird Drive area had particularly been questioned. She also stated that there had been considerable public comment about short-term rentals, which she differentiated from Vacation Rental Dwellings (VRDs). These would include the Airbnb-type rentals that might sometimes consist of just a room in a house.

Norman sought to clarify the distinction between short-term rentals and VRDs, considering the duration of stay was generally the same for both.

Nichols restated that a VRD would consist of a whole house, while a short-term rental would not, at least as it was commonly defined, and was closer to the concept of hosting someone in your home.

Jurkowski thought the idea of limiting the number of VRDs in a neighborhood arose from concerns that those who were owner-occupants would feel surrounded and isolated, but she suggested short-term rentals might not have the same impact.

Nichols observed that impact and equity were the main issues some citizens had brought to Staff's attention regarding short-term rentals, and she proposed that the Commission could discuss those issues in the coming year. She explained that the equity aspect had to do with the ability of property owners along Beach Loop Drive to have a VRD and make money, but others living elsewhere in town were not allowed to do so.

Norman asked if owners of VRDs or short-term rentals were treated as if they operated a hotel and had to pay room taxes.

Nichols said the City considered VRDs to essentially be commercial businesses. Therefore they pay Transient Occupancy Taxes (TOTs) the same as hotels. She added that short-term rentals do, as well.

Norman wondered if a "grandma's apartment" built over his garage could be utilized as a short-term rental or as a VRD.

Nichols responded that the City's VRD Ordinance did not permit a VRD that is the primary dwelling on a property to have an ADU that is also a VRD. She thought allowances could be made for some ADUs to be short-term rentals, but the driving concept of the comprehensive ADU Ordinance was to facilitate more long-term housing opportunities.

Starbuck asked if the Commission had considered ADUs as possible short-term rentals or only as residential dwellings.

Jurkowski and Fisher discussed whether the ordinance required owner-occupancy of the primary dwelling that had an ADU. Fisher recalled the Commission having recommended that both the primary dwelling and the ADU had to have long-term occupancy, but the primary dwelling could be owner-occupied or rented.

Nichols read the language in the ordinance that confirmed that ADUs were not allowed on properties designated as VRDs and were prohibited from use as VRDs in all zones in Bandon.

Slothower said he liked the language in the ordinance, and Nichols said the Commission did a great job on the ordinance.

Fisher pointed out that the Commission had held a joint workshop with the City Council during the process of developing the ADU Ordinance. He favored holding more workshops and Jurkowski agreed.

Slothower stressed that the Commissioners had discussed the ordinance in a work session before meeting with the Council, so they had already formed some recommendations to bring to that meeting, helping make the workshop more focused and productive.

Nichols was amenable to scheduling a joint session with the Commission and Council, but she concurred with Slothower that the Commissioners should be prepared for such a workshop with ideas and priorities they had already discussed. She added that it was important for the Commission to work closely with the Council because the items adopted by the Commission ultimately go before the Council for approval.

Fisher remarked that the Councilors also said they felt the joint workshop was beneficial.

Nichols solicited additional topics and priorities from the Commissioners for consideration in 2021.

Fisher responded that he still had an interest in bike trails. Nichols thought that might be more of a subject for the Parks and Recreation Commission.

Slothower, from his focus as the City's volunteer Vegetation Management Coordinator, asked if there was a way to require realtors to tell people that they will have to remove gorse that is present when they buy property in Bandon.

Nichols was unsure if that was an issue that involved Planning.

Slothower emphasized that it was unfair to prospective buyers if they are not informed of the need to clear the gorse, especially in locations along the bluffs where there could be a substantial expense involved.

Fisher suggested it could be a prerequisite for a homeowner to eradicate the gorse before selling a property.

Slothower favored something being clearly stated in the sale of a home, so the existence of gorse could not be concealed.

Jurkowski wondered if the State had any regulations that would require what Slothower wanted, given that Bandon is considered the epicenter of the gorse infestation. Slothower replied that there were no such State regulations.

Norman countered that there are disclosure requirements for property sales, and Slothower agreed that they might apply to gorse. Norman added that an owner who failed to inform a purchaser would even have some post-sale liability.

Slothower hoped the Commission could address the issue of how gorse is treated in property transfers, but Nichols expressed concerns about whether the Planning Department could codify such a regulation. However, she thought there was potential for using code compliance regarding gorse abatement during the processing of zoning permit applications.

Jurkowski stressed the need to give attention to gorse in Bandon in light of the recent devastating wildfires in Oregon.

Norman inquired if the Commission had discussed sidewalks recently. Nichols said the Commission had not addressed that topic, but it had come up in the Planning Department earlier that day.

Norman felt at least one side of Beach Loop Drive ought to have a sidewalk. He had observed groups of people walking two or three abreast in the gravel along Beach Loop Drive, and he termed it a safety issue. Norman was especially concerned with the older, fragile individuals he saw weaving as they walked on the gravel and around puddles on their way to Coquille Point.

Fisher noted that he had brought up the topic of sidewalks with former Planning Director Dennis Lewis, who told him the City was promoting sidewalk construction on "collector" streets such as 11<sup>th</sup> Street and Seabird Drive. Fisher believed Beach Loop Drive should be included.

Nichols explained that the City's Transportation System Plan did have some requirements that governed when someone building a new home needed to construct a sidewalk, as well as detailing where the City planned to install sidewalks in the future. She said it was up to the City's discretion, that they could be placed on one side of "local" streets, and that sidewalks on Beach Loop Drive were not out of the question. Nichols commented that there had historically been some opposition to having sidewalks from residents on Beach Loop Drive, who said they appreciated the "coastal charm" of the gravel. She added that the City, which did not have paved roads everywhere until the

early 2000s, has had limited financial ability to provide infrastructure like sidewalks to the extent it might like.

Nichols stated that there had been an effort to make non-remonstrance agreements with property owners to ensure that if a sidewalk was not constructed at the time development occurred, they agreed to become partners with the City in an LID (Local Improvement District) to help pay for the sidewalk if the City should decide to install a sidewalk at a later time. She said that recently a sidewalk had been required for a new home built near the corner of Seabird Drive and Beach Loop Drive, but sidewalks have not been required consistently, and she supported the Commission looking over the City's plans and policies for sidewalks and possibly recommending updates.

Fisher observed that one problem with having a gravel path along the side of a street was that people think it is the shoulder and they park there. He cited the top of Madison Avenue above the Jetty as an example, saying people park in the gravel path and then walk down the hill.

Nichols understood that the gravel area was a City right-of-way that was technically not designated as a sidewalk area, but she agreed that the City sometimes had a parking problem around some of the more popular scenic destinations.

Next, Nichols invited Chandler to join the discussion. He told the Commissioners he had been hearing some great ideas, and he stated that there were many options the City could consider, "short of full curb-gutter-sidewalk." Much of what the City could do, Chandler said, would depend on taking the time to find the money. He noted that pedestrian/bicycle/multi-modal non-vehicle transportation options were popular and funding was available, and he generalized that any chance to find money for anything to improve the City of Bandon would be worth considering.

Chandler acknowledged the problems on Beach Loop Drive and thought there were improvements the City could make that would be less expensive than sidewalks. He went on to say that Bandon's roads were just asphalt poured on top of 100-year-old gravel and were not built to modern street construction standards due to lack of money, except, he said with a touch of irony, for the section of street Jurkowski had to put in to her home.

Nichols said she appreciated the brainstorming that was happening.

Fisher commented that the Transportation Plan showed 20<sup>th</sup> Street being a bike path from Beach Loop Drive to Rosa Road, and he wondered if it could be cleared as a path.

Nichols pointed out that since the path would go through the "Donut Hole" and would connect 20<sup>th</sup> Street to Beach Loop Drive by way of Face Rock Drive, most of it would be outside Bandon's city limits. She suggested that Beach Loop Drive would be a good candidate for bicycle and pedestrian facilities because it is part of the Oregon Coast Trail and the Oregon Coast Bike Route.

Fisher interjected that Riverside Drive was also on those routes and part of Bandon's bicycle plan.

### **3.0 ADJOURN**

Nichols indicated that the Commission would not meet in December 2020 and adjourned the Work Session at 7:48 p.m.

Planning Commission Regular Meeting and Work Session Minutes  
Submitted by Richard Taylor, Minutes Clerk



# City of Bandon

## PLANNING COMMISSION AGENDA DOCUMENTATION

DATE: January 28, 2021

SUBJECT: Planning Action # 20-129, Process Ordinance

ITEM NO: 4.1

### BACKGROUND

In November 2020, the Planning Commission held a work session to discuss upcoming priorities. Staff recommended that the Commission prepare an ordinance amendment to update existing process, to both reorganize the existing structure and provide additional detail to processes that were previously unclear. The Commission agreed to review this item at the following work session in December, at which time Staff presented the Oregon Department of Land Conservation and Development (DLCD) Model Code for Small Cities. The model code provided the outline for the proposed Ordinance language before you today.

The major changes that are proposed as part of this update include: (1) a reorganization of existing chapters, (2) a move to categorizing approvals by “type” and outlining a process through which each action may be approved, (3) updating the land division procedures to consolidate approval procedures and clarify existing inconsistencies, and (4) adjustments & variances. Notice was provided with the DLCD Post-acknowledgement plan amendment online portal on December 8th, 2020. Notice was provided on the City of Bandon website on January 8th, 2021:

<https://www.cityofbandon.org/general/page/20-129-process-ordinance>

### POTENTIAL MOTION

I move to recommend that the City Council adopt the Process Ordinance as presented in the attachment, with changes to both Title 16 and Title 17 of the Bandon Municipal Code.

### SUBMITTED BY:

*Dana Nichols*

Dana Nichols, Planning Manager



## PROCESS ORDINANCE STAFF REPORT

### Background

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### Discussion

Staff has attached the recommended changes to this Report or your review. An overview of each proposed change is provided below.

**Reorganization:** The two sections of Bandon Municipal Code related to development, Titles 16 & 17, have been rearranged for better organization. While previously, Title 16 *Land Division Regulations* and Title 17 *Zoning* made sense in naming, the content provided therein was not always related to that title. For example, both Title 16 and Title 17 contained planning commission authority and information about variance procedures. Also, definitions were in Land Division Regulations, even though they were mostly connected to terms in the Zoning title.

Staff proposes instead to rename Title 16 as *Application Review Procedures & Approval Criteria* and move procedural information out of the zoning Title. This title now contains: Administration & Enforcement, Land Divisions and Property Line Adjustments, Conditional Uses, Modifications to Approved Plans, Zone Changes and Amendments, Adjustments & Variances, Improvements, and Planned Unit Developments.

**Type of Procedures and Actions:** The existing language in the Chapter 17.120 and 17.124 was combined and reorganized into “type” procedures and moved to Chapter 16.04. Previously, the code defined approvals falling under administrative action, requiring review at a public meeting, or requiring a public hearing. It was often unclear for the application what the process would be to approve their application, and this section lacked information about approval of legislative decisions. The update includes categorizing all existing planning actions into different types: Type I (ministerial), Type II (administrative with notice), Type III (Quasi-Judicial, require a public hearing), and Type IV (Legislative). This section also



redefines the role of the Hearings Officer and provides greater detail about time frames and consolidated review of applications.

**Land Divisions:** Within the proposed new Title 16, the Land Division and Property Line Adjustment chapters (16.04, 16.08, 16.12, 16.16, 16.32, 16.36) have been combined into one chapter. This was made possible through the addition of categorizing the procedure by type, and thus streamlining the actual language required to describe the application process and instead just focusing on the application requirements and land division standards. This section also now includes more information about the ORS requirements for filing and recording, which has often been a confusing process for our applicants.

**Adjustments & Variances:** Staff recommends adopting the Model Code language for adjustments & variances. The adjustment language provides more flexibility, within agreed upon parameters, for staff to make decisions in limited situations. Variances will still go to the Planning Commission for approval, however the conditions for granting a variance have been updated for clarity of interpretation.

### Questions to Consider

- Was there anything we missed? Misinterpreted from the Work Session discussions? Are there sections that are in the wrong chapter?
- Adjustment percentages: The Oregon Model Code suggests a 10-20 percent range. Staff used 10%, however the Planning Commission can recommend a different number.
- Noticing requirements were copied from the existing code, with some additions for clarity only. Are the noticing requirements appropriate for our community? Are there any recommended changes?

## Title 16

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### ~~LAND-DIVISION REGULATIONS~~Application Review Procedures & Approval Criteria

#### Chapters:

- 16.04 ~~Title and Purpose~~Administration & Enforcement
- 16.08 ~~Planning Commission Authority~~Land Divisions and Property Line Adjustments
- 16.12 ~~Tentative Subdivision Plans~~Conditional Uses
- 16.16 ~~Subdivision Final Plans~~Modifications to Approved Plans
- 16.32 ~~Land Partitions~~Zone Changes and Amendments
- 16.36 ~~Property Line Adjustments~~Adjustments & Variances
- 16.40 Improvements
- ~~16.42 Definitions.~~
- 16.50 ~~Validity, Variances and Enforcement~~Planned Unit Development

Ordinance History: #934, 1135, 1171, 1205, 1208, 1230, 1365, 1367, 1471, 1487, 1504, 1546, 1565, 1567, 1604, 1616, 1623, 1625, 1626, 1629

Chapter 16.04

TITLE AND PURPOSE

**Sections:-**

**Chapter 16.04**

**ADMINISTRATION AND ENFORCEMENT**

**Sections:**

- 16.04.010 Purpose.
- 16.04.020 Types of procedures and actions.
- 16.04.030 Applications.
- 16.04.040 Time limit on action on applications.
- 16.04.050 Type I Procedure
- 16.04.060 Type II Procedure
- 16.04.070 Type III Procedure
- 16.04.080 Type IV Procedure
- 16.04.090 Time Limits and Consolidated Review
- 16.04.100 Fees.
- 16.04.110 Interpretation.
- 16.04.120 Enforcement.
- 16.04.130 Violations.
- 16.04.140 Penalty.

**16.04.010 Purpose.**

The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

**16.04.020 Types of procedures and actions.**

All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures as described in subsections 1-4 below.

- A. Type I Procedure: Type 1 decision are made by the City Planning Department, or their designee, without public notice and without a public hearing. A Type 1 procedure is used in applying City standards and criteria that do not require the use of discretion.
- B. Type II Procedure: Type II decisions are made by the City Planning Department, with public notice and an opportunity for appeal to the Planning Commission. Alternatively, the City Planning Department may refer a Type II application to the Planning Commission for its review and decision in a public meeting.
- C. Type III Procedure: Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. Quasi-judicial decisions involve discretion but implement established policy.
- D. Type IV Procedure: The Type IV procedure applies to the creation or revision, or

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large-scale implementation, of public policy. Type IV reviews are considered by the Planning Commission, which makes a recommendation to the City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

Table 16.04.020 – Summary of Approvals by Type of Review Procedure

Applications	Review Procedures	Applicable Regulations
Zoning Compliance	Type I	
Adjustment	Type II	
Annexation	Type IV	
Zone Code Text Amendment	Type IV	
Comprehensive Plan Amendment	Type IV	
Conditional Use Permit	Type III	
Flood Plain Development	Type I	
Home Occupation	Type I	
Modification to Approval	Type I, II, or III	
Partition or Re-Plat of 2-3 lots		
Preliminary Plat	Type III	
Final Plat	Type I	
Property Line Adjustment	Type I	
Plan Review	Type II	
Sign Permit	Type I or II	
Subdivision or Replat of >3 lots		
Preliminary Plat	Type III	
Final Plat	Type I	
Variance	Type III	
Zoning Map Change	Type III or IV	

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#### 16.04.030 Applications.

An application for a permit shall occur as a written application on a form provided by the city. Applications may be filed by the city, the owner of the property, or the contract purchaser with written approval from the owner. There shall be paid to the city at the time of filing an application fee. This fee is set separately from this title.

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#### 16.04.040 Time limit on action on applications.

- A. Except as provided in subsections D and E of this section, the city shall take final action on an application for a permit or zone change, including resolution of all appeals under ORS 227.180, within one hundred twenty (120) days after the application is deemed complete.
- B. If an application for a permit or zone change is incomplete, the city or its designate shall notify the applicant of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed incomplete and void for the purposes of subsection

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A of this section on the 31st day after the city mailed or delivered notification to the applicant of the required additional information.

- C. If the application was complete when first submitted or the applicant submits the requested additional information within one hundred eighty (180) days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- D. The one hundred twenty (120) day period set in subsection A of this section may be extended for a reasonable time at the written request of the applicant.
- E. The one hundred twenty (120) day period set in subsection A of this section applies only to decisions wholly within the authority and control of the governing body of the city. This does not apply to an amendment to the city's acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the director of DLCD under ORS 197.610(1).
- F. Local government has one hundred twenty (120) days to take final action on an application for a permit or zone change unless the parties have agreed to mediation as described in ORS 197.318(2)(b).
- G. If the governing body of the city or its designate does not take final action on an application for a permit or zone change within one hundred twenty (120) days after the application is deemed complete, the applicant may apply in the circuit court of the county where the application was filed for a writ of mandamus to compel the governing body or its designate to issue the approval. The writ shall be issued unless the governing body shows that the approval would violate a substantive provision on the city comprehensive plan or land use regulation as defined in ORS 197.015.

#### 16.04.050 Type I Procedure

- A. Type I Procedure. The City Planning Department, or their designee, without public notice and without a public hearing, makes ministerial decisions through the Type I procedure. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion (i.e., there are clear and objective standards).
- B. Zoning Compliance. The City Planning Department reviews proposals requiring a Type I review using a Zoning Compliance application. Zoning Compliance is used to ensure a project proposal meets the requirements of Title 17 before they are sent to the State of Oregon Building Code Division for a building permit.
- C. Application Requirements.
  - 1. *Application Forms.* Approvals requiring Type I review, including Zoning Compliance, shall be made on forms provided by the City.
  - 2. *Application Requirements.* When Zoning Compliance is required, it shall:
    - a. Include the information requested on the application form;
    - b. Address the criteria in sufficient detail for review and action; and

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c. Be filed with the required fee.

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*D. Requirements.* The City shall not act upon an application for land use approval, and a building permit shall not be issued, until the City Planning Department has approved Zoning Compliance for the proposed project.

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*E. Criteria and Decision.* The City Planning Department's review of Zoning Compliance is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit.

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*F. Effective Date.* A Zoning Compliance decision is final on the date it is signed by the City Planning Department. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the state Land Use Board of Appeals.

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#### 16.04.060 Type II Procedure

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The City Planning Department, or their designee, performs Administrative Staff Reviews through the Type II procedure. Type II decisions are made by the City Planning Department with public notice and an opportunity for appeal to the Hearings Officer. Alternatively, the City Planning Department may refer a Type II application to the Hearings Officer or Planning Commission for review and decision in a public meeting.

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##### A. Application Requirements.

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1. Application Forms. Applications for projects requiring Administrative Review shall be made on forms provided by the City Planning Department.

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2. Submittal Information. The City Planning Department shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:

- a. The information requested on the application form;
- b. Plans and exhibits required for the specific approval(s) being sought;
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
- d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
- e. The required fee.

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##### B. Procedure.

1. The City Planning Department shall mail notice of a pending Type II decision to the

following individuals and agencies no fewer than 14 days prior to making the Type II decision.

2. The purpose of the Administrative Decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the Planning Department issues the decision. The intent is to invite people to participate early in the decision-making process. Therefore all of the following individuals and agencies shall be notified:

- a. All owners of record of real property within a minimum of 100 feet of the subject site;
- b. Any person who submits a written request to receive a notice; and
- c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.

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3. The notice of pending Administrative Decision, at a minimum, shall contain all of the following information:

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- a. The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled Planning Commission meeting date where an application is referred to the Commission for review;
- b. A summary of the proposal and the relevant approval criteria in sufficient detail to help the public identify and locate applicable code requirements;
- c. The address and City contact person for submitting written comments; and the date, time, and location the City Planning Department or Planning Commission, as applicable, is scheduled to make a decision on the application;
- d. The street address or other easily understandable reference to the location of the proposed use or development;
- e. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- f. Statement that all evidence relied upon by the City Planning Department or Planning Commission, as applicable, to make its decision is in the public record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the City; and
- g. Statement that after the comment period closes, the City will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted

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written comments or who is otherwise legally entitled to notice.

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4. At the conclusion of the comment period, the City Planning Department shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Code criteria. Alternatively, the City Planning Department may transmit all written comments received, if any, along with a copy of the application to the Planning Commission, or their designee, for review and decision at its next regularly scheduled meeting.
5. Where the City Planning Department refers an application subject to Administrative Review to the Planning Commission or Hearings Officer, the reviewing body shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Code criteria. The reviewing body may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the body makes a final decision within the 120-day period prescribed under state law (ORS 227.178). Alternatively, the applicant may voluntarily waive their right to a final decision within the 120-day timeframe and the reviewing body may decide to accept oral and written testimony in a public hearing review of the application; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.
6. Within seven days of a Type II (Administrative) decision, the City Planning Department shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), the State Building Codes Division, those who provided written comments on the proposal, and those who requested a copy of the decision. The City Planning Department shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

7. The Administrative Notice of Decision shall contain all of the following information:

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- a. A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
- c. A statement of where the City's decision can be obtained;
- d. The date the decision shall become final, unless appealed; and
- e. A statement that all persons entitled to notice may appeal the decision to City Council.

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- C. Effective Date of Decision. Unless the conditions of approval specify otherwise, an

Administrative Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed.

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D. Appeal of Type II (Administrative) Decision. A Type II Administrative Decision made by the City Planning Department may be appealed to the City of Bandon Hearings Officer; and a Type II Administrative Decision made by the Hearings Officer may be appealed to the City Council, as applicable, pursuant to the following:

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:

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- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type II decision; and
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

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2. Appeal filing procedure.

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- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures.
- b. *Time for filing.* A Notice of Appeal shall be filed with the City Planning Department within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
- c. *Content of notice of appeal.* The Notice of Appeal shall be accompanied by the required filing fee and shall contain:

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- (1) An identification of the decision being appealed, including the date of the decision;
- (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
- (3) A statement explaining the specific issues being raised on appeal; and
- (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

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3. Scope of appeal. The appeal of a Type II Administrative Decision shall be a hearing de novo, either before the Hearings Officer, where the contested decision was made by the City Planning Department, or before the City Council, where the Hearings Officer made the contested decision. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Administrative Decision, but may include other relevant evidence and arguments.

The hearing appeal body may allow additional evidence, testimony, or argument concerning any relevant standard, criterion, condition, or issue.

4. Appeal Hearing Procedure. Hearings on appeals of Type II decisions shall follow the same procedure used for public hearings on Type III reviews. Section 17.120.070 contains requirements for public hearing notices, conduct of hearings, and decision-making procedures.

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#### 16.04.070 Type III Procedure

Type III decisions are made by the Planning Commission or the Hearings Officer after a public hearing, with an opportunity for appeal to the City Council.

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##### A. Application Requirements.

1. Application Forms. Applications requiring Quasi-Judicial review shall be made on forms provided by the City Planning Department.
2. Submittal Information. The City Planning Department shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:

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- a. The information requested on the application form;
- b. Plans and exhibits required for the specific approval(s) being sought;
- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
- d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
- e. The required fee

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##### B. Procedure.

###### 1. Mailed and Posted Notice.

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- a. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Department shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:

(1) All owners of record of real property located within a minimum of 250 feet of the subject site;

(2) Any person who submits a written request to receive a notice; and

(3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Planning Department shall notify the road authority if different than the City of Bandon. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.

- b. At least 14 days before the first hearing, the applicant or applicant's representative shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Planning Department. The applicant shall submit an affidavit of notice using a form provided by the City, which shall be made a part of the file. The affidavit shall state the date that the notice was posted.
- c. At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.

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- 2. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:

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- a. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
- b. The date, time, and location of the scheduled hearing;
- c. The street address or other clear reference to the location of the proposed use or development;
- d. A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Department, and that copies shall be provided at a reasonable cost;
- f. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- h. A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

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C. Conduct of the Public Hearing.

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1. At the commencement of the hearing, the Hearings Officer, Chairperson of the Commission or Mayor, as applicable, or their designee, shall state to those in attendance all of the following information and instructions:

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- a. The applicable approval criteria by Code chapter that apply to the application;
- b. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
- c. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
- d. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See subsection 'E' Record of the Public Hearing; and
- e. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 5 of this subsection, or leave the record open for additional written evidence or testimony as provided paragraph 6 of this subsection.

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2. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

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3. Presenting and receiving evidence.

- a. The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and

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- c. Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

- 4. The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.

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- 5. If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.

- 6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:

- a. When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
- b. An extension of the hearing or record granted pursuant to this section is subject to the limitations of ORS 227.178 (120-day rule), unless the applicant waives their right to a final decision being made within 120 days of filing a complete application; and
- c. If requested by the applicant, the hearing body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

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- 7. The Notice of Quasi-Judicial Decision shall contain all of the following information:

- a. A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a

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copy of assessor's map may be used);

- c. A statement of where the City's decision can be obtained;
- d. The date the decision shall become final, unless appealed; and
- e. A statement that all persons entitled to notice may appeal the Planning Commission's decision to City Council, or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

C. Effective Date of Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 10 days after the City mails the decision notice, unless the decision is appealed.

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D. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:

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1. Who may appeal. The following people have legal standing to appeal:

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- a. The applicant or owner of the subject property; and
- b. Any other person who testified orally or in writing during the subject public hearing before the close of the public record.

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2. Appeal filing procedure.

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a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.

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b. *Time for filing.* A Notice of Appeal shall be filed with the City Planning Department within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.

c. *Content of notice of appeal.* The Notice of Appeal shall be accompanied by the required filing fee and shall contain:

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(1) An identification of the decision being appealed, including the date of the decision;

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(2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;

(3) A statement explaining the specific issues being raised on appeal; and

(4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

3. Scope of appeal. The appeal of a Type III Quasi-Judicial Decision shall be a hearing de

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novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

E. Record of the Public Hearing.

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1. The official public hearing record shall include all of the following information:

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- a. All materials considered by the hearings body;
- b. All materials submitted by the City Planning Department to the hearings body regarding the application;
- c. The minutes of the hearing;
- d. The final written decision; and
- e. Copies of all notices given as required by this chapter, and correspondence regarding the application that the City mailed or received.

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2. The meeting minutes shall be filed in hardcopy form with the City Planning Department. The minutes and other evidence presented as a part of the hearing shall be part of the record.

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3. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

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F. Effective Date and Appeals to State Land Use Board of Appeals. A Quasi-Judicial Decision or Appeal Decision, as applicable, is effective the date the City mails the decision notice. Appeals of City Council decisions under this chapter shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

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16.04.080 Type IV Procedure

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A. Timing of Requests. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.

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B. Application Requirements.

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1. Application forms. Legislative applications shall be made on forms provided by the City Planning Department.

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2. Submittal Information. The application shall contain all of the following information:

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- a. The information requested on the application form;

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- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee, except when City of Bandon initiates request; and
- d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

C. Procedure. Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

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- 1. The City Planning Department shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.
- 2. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
  - a. Each owner whose property would be directly affected by the proposal (see ORS 227.186);
  - b. Any affected governmental agency;
  - c. Any person who requests notice in writing; and
  - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
- 3. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
- 4. For each mailing and publication of notice, the City Planning Department shall keep an affidavit of mailing/publication in the record.

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D. Final Decision and Effective Date. A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or, if not approved, upon mailing of the notice of decision to the applicant. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City Planning Official. The City shall also provide notice to all persons as required by other applicable laws.

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#### 16.04.090 Time Limits and Consolidated Review

A. Time Limit - 120-day Rule. The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the City Planning Department deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178.

B. Time Periods. In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

C. Consolidated Review of Applications. When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.

#### 16.04.100 Authority of hearings officer.

The hearings officer is an impartial third party contracted by the City to hear land-use applications that require judgment and discretion in applying the Land Division and Zoning Code.

A. The Hearings Officer shall be appointed by the City Manager and shall hold office at the pleasure of the City Manager.

B. It shall be the duty of a Hearings Officer to exercise any express or implied power, right, or act pursuant to this code or ORS Chapter 227, and to receive and examine available information, conduct public hearings, prepare a record thereof, and enter findings and conclusions in connection therewith.

#### 16.04.110 Fees.

The Bandon city council shall set planning, zoning and permit fees by resolution. Such fees shall be set at an amount no more than the actual or average cost of providing the planning or zoning service, excluding the cost of preparation of a written transcript up to five hundred dollars (\$500.00) plus up to one-half the actual cost over five hundred dollars (\$500.00).

#### 16.04.190 Interpretation.

The provisions of this title shall be held to be the minimum requirements necessary to fulfill the objectives of this title. Where conditions are imposed under or by provisions of this title or any other ordinance, resolution or regulation, the provisions which are more restrictive shall apply.

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**16.04.120 Enforcement.**

The city manager or designate shall have the power and duty to enforce the provisions of this title. No public employee or official of the city shall issue any permit or license for any use, activity or structure which violates provisions of this title. Any permit or license issued in conflict with the provisions of this title shall be void.

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**16.04.130 Violations.**

Any land use, building or structure occurring, set up, erected, constructed, altered, enlarged, converted, moved or maintained in a manner contrary to the provisions of this title shall be declared to be unlawful and the city manager or designate shall commence with actions or proceedings for the abatement, removal or discontinuance of the use. The city manager or designate may take steps and apply to courts that may have jurisdiction to grant relief from violations.

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**16.04.140 Penalty.**

Violation of this title is punishable in accordance with Chapter 1.16.

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~~16.04.010 Title-~~

~~16.04.020 Purpose-~~

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~~16.04.010 Title-~~

~~This title shall be known as the land division regulations of the city of Bandon, Oregon.~~

~~16.04.020 Purpose-~~

~~This title is enacted for the purpose of adopting land division regulations for the city and for the purpose of accomplishing the following objectives:~~

~~A. Assist property owners in developing their property in an expeditious manner;~~

~~B. Create better living conditions within new subdivisions and assure the provision of certain amenities;~~

~~C. Simplify and make certain land descriptions;-~~

~~D. Extend necessary city streets, utilities and public areas without expensive land purchases;~~

~~E. Enhance and secure property values in the subdivision and adjacent lands;-~~

~~F. Protect purchasers from unexpected assessments.~~

## Chapter 16.08

### LAND DIVISIONS & PROPERTY LINE ADJUSTMENTS

#### SECTIONS:

- 16.08.010 Purpose
- 16.08.020 General Requirements
- 16.08.030 Approval Process
- 16.08.040 Pre-Planning for Large Sites
- 16.08.050 Flexible Lot Size and Flag Lots
- 16.08.060 Preliminary Plat Submission Requirements
- 16.08.070 Preliminary Plat Approval Criteria
- 16.08.080 Land-Division-Related Variances
- 16.08.090 Final Plat Submission Requirements and Approval Criteria
- 16.08.100 Filing and Recording
- 16.08.110 Re-platting and Vacation of Plats
- 16.08.120 Property Line Adjustments

#### 16.08.010 Purpose

The purpose of this chapter is to implement the objectives in subsections A-E, below:

A. Provide rules, regulations, and standards governing the approval of subdivisions, partitions, and property line adjustments as follows:

1. Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one (1) calendar year, or any division of land that creates a street.
2. Partitions are the creation of three or fewer lots from one parent lot, parcel, or tract within one calendar year.
3. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).

B. Carry out the City's development pattern, as envisioned by the City's comprehensive plan.

C. Encourage efficient use of land resources and public services, and to provide transportation options.

D. Promote the public health, safety, and general welfare through orderly and efficient urbanization.

E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.

#### 16.08.020 General Requirements

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A. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

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Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 16.08.120; they are not subject to 16.08.020 through 16.08.110.

B. Compliance ~~with~~ Oregon Revised Statutes (ORS) Chapter 92. All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92 Subdivisions and Partitions.

B.C. ~~Future Re-division Plan. Conversion Plans. When subdividing or partitioning tracts into large lots (i.e., greater than three times or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future. At the time an application is made to divide a parcel into any number of lots, a conversion plan must also be submitted, if the parcel will have additional division potential after the current proposal is completed. The conversion plan must show how the parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning. The conversion plan must provide all of the graphic information required for a land subdivision or partition, as applicable, based on the ultimate number of lots allowable under the zoning. The conversion plan must show how the presently proposed division will be compatible with the allowable ultimate land division. The conversion plan must be simultaneously recorded with the approved partition plat and shall be binding unless amended with the planning commission's approval. (See also, Section 4.3.16.08.040 Pre-Planning for Large Sites.)~~

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C.D. Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant to Titles 12 & Chapter 3-6 13. These systems shall be located and constructed underground where feasible.

D.E. Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant to Chapter ~~3-6~~ Title 13.

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F. Adequate Access. All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant to Titles 16 and 17 ~~Chapter 3-3~~.

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**4.3.16.08.030 Preliminary Plat Approval Process**

**A. Review of Preliminary Plat.** Preliminary plats shall be processed using the Type III procedure under Section ~~4.4.16.08.040~~. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section ~~16.084.3.070~~.

**A.**

**B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to Section ~~16.084.3.090~~, within the two-year period. The Planning Commission may approve phased subdivisions, pursuant to subsection ~~16.084.3.030.D~~, with an overall time frame of more than two years between preliminary and final plat approvals.

**B.**

**C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter ~~4.5.16.16~~. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed one year per extension, provided that all of the following criteria are met:

**C.**

**1. Any changes to the preliminary plat follow the procedures in Chapter ~~16.164.5~~;**

**1.**

**2. The applicant has submitted written intent to file a final plat within the one-year extension period;**

**2.**

**3. An extension of time will not prevent the lawful development of abutting properties;**

**3.**

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~~4.~~ ~~4.~~ There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and

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~~5.~~ ~~5.~~ The extension request is made before expiration of the original approved plan.

~~D.~~ ~~D.~~ Phased Subdivision. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets ~~all of all~~ the following criteria:

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~~1.~~ ~~1.~~ In no case shall the construction ~~time period~~time (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one year;

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~~1.~~ \_\_\_\_\_

~~2.~~ ~~2.~~ Public facilities shall be constructed in conjunction with or prior to each phase;

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~~3.~~ ~~3.~~ The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;

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~~4.~~ ~~4.~~ The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and

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~~5.~~ Planning Commission approval is required for modifications to phasing plans.

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~~16.084.3.040~~ Pre-planning for Large Sites

~~User's Guide: The following provisions are optional. They are intended to encourage advanced planning for areas that may take many years to build out, in order to encourage well-planned neighborhoods and avoid piecemeal development.~~

~~A. A-Purpose.~~ Section ~~4-316.08.040~~ requires the pre-planning of large sites in conjunction with requests for annexation, and applications for phased subdivisions and master plan developments; the purpose of which is to avoid piecemeal development with inadequate public facilities.

~~A.~~

~~B. B-Applicability.~~ This section applies to land use applications and annexations affecting more than 40 acres of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.

~~B.~~

~~C. C-Area Plan Required.~~ Prior to submittal of an annexation petition or land division application for an area subject to Section ~~4-316.08.040~~, a conceptual master plan shall be submitted to the City Planning Official with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, parks, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership. The plan shall demonstrate how future development, including any proposed phasing, can meet all the guidelines under subsection D, below.

~~C.~~

~~D. D-Criteria.~~ The conceptual plan required under subsection C, above, is not required to be engineered but shall have a sufficient level of detail so that the City officials can determine that it meets the following design guidelines:

~~D.~~

- ~~1. 1-~~Streets are interconnected to the extent practicable; blocks are walkable in scale (generally 200-600 feet in length), except where topography, existing development, or other physical features require longer blocks, in which case pedestrian access ways connect through long blocks;

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2. 2. Water, sewer, and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated;

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3. 3. Overall, the plan achieves a housing density that is [within 80% - 100% of planned densities,] consistent with the Comprehensive Plan and Development Code; and

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4. The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.

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4. \_\_\_\_\_

**E.** Implementation. The City will review the conceptual master plan required by this section and provide input to the applicant during the pre-application meeting for the land use application or annexation petition, as applicable. The City may also refer the plan to outside agencies with jurisdiction for their input. The master plan is not binding, but the applicant is encouraged to refine the plan based on City input before submitting a land use application or annexation petition for the subject property. The applicant is also required to contact adjacent property owners and solicit their input prior to submitting a land use application, pursuant to Section 4.1.040.B.]

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#### **E.**

##### **[4.316.08.050 Lot Size Averaging, Flag Lots, and Infill Development**

**User's Guide:** The following provisions are optional but recommended, in order to promote a variety of housing choices, particularly where development sites are constrained by topography, parcelization (small parcel sizes), irregular boundaries, natural resources, or other challenges. The standards are intended to provide flexibility in these situations and encourage well-planned neighborhoods, though they may not be appropriate for some communities.

**A. Lot Size Averaging.** To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and other natural and built features, the approval body may grant a [10-20] percent modification to the lot area and/or lot dimension (width/depth) standards in Chapter 2.3, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:

1. Granting the modification is necessary to achieve planned housing densities, as allowed by the underlying zone, or to improve development compatibility with natural features or adjacent land uses;

2. Where a proposed subdivision would abut an existing subdivision with standard, or larger, sized lots, the perimeter of the proposed subdivision shall contain standard, or larger, sized lots; except that this provision does not apply where the existing lots are larger than [20,000] square feet; and

3. The (City decision-making body) may require screening, buffering, or other transitions in site design where substandard lots are proposed to abut standard, or larger, sized lots.

**User's Guide:** The standards in subsections B-E should be developed in consultation with your local fire marshal. Note that city standards supersede Fire Code standards.

**B. Flag Lots.** Flag lots may be created only when a through street cannot be extended to serve abutting uses or future development. A flag lot driveway ("flag pole") shall serve not more than [two / four] dwelling units, including accessory dwellings and dwellings on individual lots. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall be designed so that future street connections can be made as adjacent properties develop, to the extent practicable, and in accordance with the transportation connectivity and block length standards of Section 3.6.020.D: Standards.

#### **A.**

1. A deep lot may be split into a front and rear lot, creating a maximum of one flag lot, if the original lot cannot be otherwise divided separately or in conjunction with adjoining lots.

2. Flag lots which would take access on an identified future or existing collector street shall

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not be allowed.

3. Flag lots which would take access on a local street shall only be allowed through the granting of a variance by the planning commission in conformance with Chapter 16.36. If granted, the divider shall recognize that the subject lots have no further division potential. In addition to variance approval and the requirements of this chapter, any flag lot shall meet the following standards;

a. The length, width and yard dimensions of each resulting lot must be at least the minimum required in the zoning district, with the front lot retaining a minimum lot depth of ninety (90) feet.

b. The rear lot must have an access to the street that is at least twenty-five (25) feet wide with twenty-five (25) feet of street frontage. The "flagpole" access must be conveyed with ownership of the rear lot and be an integral part of the rear lot;

c. The driveway access shall be improved to a permanent surface of asphaltic concrete, Portland cement, or gravel acceptable to the public works department with a minimum width of twelve (12) feet. Shared access agreements benefitting two adjacent parcels may be allowed where two accesses are less than fifty (50) feet apart or the resulting configuration of the lots permits shared access.

A. C.Infill Development and Mid-Block Lanes. Where consecutive flag lot developments or other infill development could have the effect of precluding local street extensions through a long block, the (City decision-making body) may require the improvement of a mid-block lanes through the block. Mid block lanes are a private drives serving more than [two / four] dwelling units with reciprocal access easements; such lanes are an alternative to requiring public right-of-way street improvements where physical site constraints preclude the development of a standard street. Mid-block lanes, at a minimum, shall be paved, have adequate storm drainage (surface retention, where feasible, is preferred), meet the construction standards for alleys, and conform to the standards of subsections D through E.

B. D.Emergency Vehicle Access. A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure, or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).

E.Maximum Drive Lane Length. The maximum length of a drive serving more than one dwelling is subject to requirements of the Uniform Fire Code, but in no case shall it exceed [X] feet or serve

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~~more than [Y] dwelling units without providing secondary access/egress.~~

**16.08.060 Preliminary Plat Submission Requirements**

Applications for Preliminary Plat approval shall contain all of the following information:

A. General Submission Requirements.

1. Information required for a Type III review (see Section 16.04.070); and
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system (for subdivisions and planned unit developments of 20 or more dwelling units); water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City standards under adopted ordinances and facility master plans. The City may require a Traffic Impact Analysis pursuant to Section 3.6.020.A(5).

B. Preliminary Plat Information. In addition to the general information described in subsection A, above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide all of the following information, in quantities determined by City Planning Official:

1. General information:

- a. Name of subdivision (partitions are named by year and file number), which shall not duplicate the name of another land division in [County name] County (check with County Surveyor);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- d. Zoning of parcel to be divided, including any overlay zones;
- e. A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a "preliminary plat."

2. Existing Conditions. Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following

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information on existing conditions of the site:

- a. Streets: Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Ground elevations shown by contour lines at two-foot vertical intervals. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Planning Commission may waive this standard for partitions when grades, on average, are less than 6 percent;
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
- g. North arrow and scale; and
- h. Other information, as deemed necessary by the City Planning Official for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed Development, Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:

- a. Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- b. Easements: location, width and purpose of all proposed easements;
- c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
- d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other uses;
- e. Proposed public street improvements, pursuant to Chapter 16.40;
- f. On slopes exceeding an average grade of 10 percent, as determined by the City

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Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;

- g. Preliminary design for extending City water and sewer service to each lot, per Chapter 16.40;
- h. Proposed method of storm water drainage and treatment, if required, pursuant to Chapter 16.40;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- j. Evidence of compliance with applicable overlay zones, including but not limited to City of Bandon Flood Plain Overlay and Hazards Overlay; and
- k. Evidence of contact with the applicable road authority for proposed new street connections.

#### 16.08.070 Preliminary Plat Approval Criteria

A. Approval Criteria. The Planning Commission may approve, approve with conditions, or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

- 1. The land division application shall conform to the requirements of Chapter 16.08;
- 2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Title 17 (Zoning);
- 3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Title 17;
- 4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
- 5. The proposed streets, utilities, and surface water drainage facilities conform to City of Bandon adopted master plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
- 6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
- 7. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and
- 8. Evidence that improvements or conditions required by the City, road authority, Coos County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.

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B. Conditions of Approval. The Planning Commission may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

#### 16.08.080 Land Division-Related Variances

Variances shall be processed in accordance with Chapter 16.36. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted; when practical, the applications shall be reviewed concurrently.

#### 16.08.090 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the Planning Commission prior to recording with Coos County. The final plat submission requirements, approval criteria, and procedure are as follows:

Submission Requirements. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 16.08.070. The format of the plat shall conform to ORS 92.

B. Approval Process and Criteria. By means of a Type II Review, the Planning Commission shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, rights-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of Bandon Public Works Department, or otherwise bonded in conformance with Section 16.40;
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;
5. The plat and deed contain a dedication to the public of all public improvements, including, but not limited to, streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;
6. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions, and Restrictions (CC&R's); easements; maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;
7. Verification by the City that water and sanitary sewer service is available to every lot

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depicted on the plat; and

8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of each monument and its reference to some corner approved by the Coos County Surveyor for purposes of identifying its location.

16.08.100 Filing and Recording

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat ("lot of record") shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

- A. Filing Plat with County. Within 60 days of City approval of the final plat, the applicant shall submit the final plat to Coos County for signatures of County officials, as required by ORS Chapter 92.
- B. Proof of Recording. Upon final recording with the County, the applicant shall submit to the City a mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.
1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92.
  2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS Chapter 92.

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16.08.110 Re-platting and Vacation of Plats

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Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to ORS Chapter 271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

16.08.120 Property Line Adjustments

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A Property Line Adjustment is the modification of a lot boundary when no lot is created. The City Planning Official reviews applications for Property Line Adjustments pursuant to the Type I procedure under Section 16.04.050. The application submission and approval process for Property Line Adjustments is as follows:

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A. Submission Requirements. All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I review, pursuant to Section 16.04.050. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions, footprints and dimensions of existing structures (including accessory structures), location and dimensions of driveways and public and private streets within or abutting the subject lots, location of lands subject to the City of Bandon Flood Plain Overlay, existing fences and walls, and any other information deemed necessary by the Planning Commission for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.

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B. Approval Criteria. The City Planning Official shall approve or deny a request for a property line adjustment in writing, based on all of the following criteria:

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1. Parcel Creation. No additional parcel or lot is created by the lot line adjustment;

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2. Lot standards. All lots and parcels conform to the applicable lot standards of the zoning district (Title 17) including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform the City of Bandon Flood Plain Overlay; and

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3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Chapter 16.40, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.

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C. Recording Property Line Adjustments

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with [County name] County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
2. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 15 days of recording and prior to any application being filed for a building permit on the re-configured lots.

Sections:

16.08.010 — Powers of the planning commission.

16.08.010 — Powers of the planning commission.

A. — The planning commission is hereby designated as the approving agency with respect to subdivisions and partitions as provided by state law and in accordance with ORS 92.040.

B. — The planning commission shall have all the powers and duties with respect to tentative plans, and the procedure relating thereto, which are specified by law and this title.

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## CHAPTER 16.12

### TENTATIVE SUBDIVISION PLANS

#### Sections:

- ~~16.12.020 — Scope.~~
- ~~16.12.030 — Definition.~~
- ~~16.12.040 — Application conference.~~
- ~~16.12.060 — Application requirements.~~
- ~~16.12.080 — Additional requirements for commercial and industrial proposals.~~
- ~~16.12.100 — Conversion plan requirement.~~
- ~~16.12.120 — Preparation of tentative plan.~~
- ~~16.12.140 — Determination of a complete application.~~
- ~~16.12.160 — Referral for review.~~
- ~~16.12.180 — Limited land use action.~~
- ~~16.12.200 — Proposal presentation.~~
- ~~16.12.220 — Burden of proof.~~
- ~~16.12.240 — Criteria for approval.~~
- ~~16.12.260 — Conditions and limitations.~~
- ~~16.12.280 — Appeal.~~
- ~~16.12.300 — Revised tentative plan.~~
- ~~16.12.320 — Filing tentative plan.~~
- ~~16.12.340 — Expiration of tentative plan.~~
- ~~16.12.360 — Staged development.~~
- ~~16.12.400 — Permit runs with land.~~

#### ~~16.12.020 — Scope.~~

~~This chapter is intended to provide for the orderly and efficient development of land within the city limits of Bandon. This chapter seeks to provide the framework within which development can occur which benefits the city, its residents and the developer.~~

#### ~~16.12.030 — Definition.~~

~~A land subdivision is the division of one lot into four or more lots or any division that will create a street. The land subdivision is used in situations where substantial engineering and improvement work will be needed. ORS Chapter 92 addresses the requirements for the surveying, recording, and monumenting of subdivisions, partitions and lot line adjustments.~~

#### ~~16.12.040 — Application conference.~~

~~The purpose of an application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this title, and to determine which application materials must be submitted to constitute a complete application. This conference shall be required prior to the submission of an application.~~

#### ~~16.12.060 — Application requirements.~~

~~All applicants shall submit to the city information and materials consistent with the requirements of this section. The planning director is empowered to waive the submission of any of the following application items, except filing fees, which are deemed unnecessary or~~

~~inapplicable based on the nature, scope, and significance of the proposed project. Waiver of~~

~~application items, if any, shall only occur following an application conference. If the planning director position is vacant, all application materials must be submitted.~~

~~A. Completed Application Form. The applicant must submit a completed application form signed by the owner of record of the real property covered by the application. If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may also be signed by the duly authorized representative of the owner of record if such authorization is evidenced by a properly executed power of attorney.~~

~~B. Tentative Subdivision Plan. The applicant shall submit fifteen (15) copies of the plan on sheets not less than eighteen (18) inches by twenty-four (24) inches at a scale of 1"=50' (one inch equals fifty feet) with the following information:~~

~~1. Proposed name and the title "tentative plan." The name shall not be similar to or pronounced the same as the name of any other subdivision in Coos County except as provided in ORS 92.090;~~

~~2. The name, address, and telephone number of property owner(s), preparer of plan, surveyor and engineers. The stamp of the registered Oregon professional surveyor shall also be clearly indicated, along with the date the plan was prepared;~~

~~3. Boundary lines (to scale) of the tract to be divided. This shall include section lines, corners, city boundaries, monuments and lot and block dimensions and other identifying numbers as deemed necessary. The plan shall also include a North arrow and the zoning of the subject and adjacent properties. Location by section, township, range and tax lot sufficient to define the location and boundaries of the proposed tract shall be called out in the title block;~~

~~4. A vicinity sketch shown on the plat at a small scale (i.e., 1" = 400' (one inch equals four hundred feet)) showing all existing and adjacent subdivisions, streets, tract lines of acreage parcels, names of the recorded owners of parcels of land immediately adjoining the land to be divided, including properties across a street, and between it and the nearest existing or proposed public road;~~

~~5. Topographic contour lines having the following minimum intervals:~~

~~Overall Site \_\_\_\_\_ Contour~~

~~Elevation Difference \_\_\_\_\_ Interval~~

~~0' - 25' \_\_\_\_\_ 2'~~

~~26' - 50' \_\_\_\_\_ 5'~~

~~51' + \_\_\_\_\_ 10'~~

~~With slopes indicated as follows:~~

~~Slopes 12% (twelve percent) to 20% (twenty percent) light shading.~~

~~Slopes exceeding 20% (twenty percent) heavy shading.~~

~~6. The existing uses of the property including scaled location and present use of all existing structures with an indication as to whether they will remain on the property after platting. The accurate location and outline of the exterior walls of all existing (dotted line) buildings and structures, with the square footage, uses, and heights of each clearly noted.~~

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- ~~7. The general type, size and location of existing (dotted line) and proposed (solid line) trees, shrubs and ground cover, including the location, height, and type of trees having a diameter of one and one half inches or greater measured four feet above the base of the tree. Groups of three or more trees with a closed canopy may be indicated using scalloped lines.~~
- ~~8. The accurate location, height and dimensions of all signs which are not to be attached to buildings.~~
- ~~9. Existing (dotted line) and proposed (solid line) exterior walls and fencing, including specification of construction materials and height.~~
- ~~10. The location and type of all exterior lighting.~~
- ~~11. The tentative plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of five percent, rock outcroppings, drainage swales, springs, woodlands, and other physical features which may influence future site layout and design. If there are any identified special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application.~~
- ~~12. The existing drainage demonstrating disposition of storm water runoff and the direction of flow for the site. A drainage plan showing all proposed drainage ways, sized inlets, culverts, drainage lines, drainage easements, disposition of storm water runoff and approximate slopes of drainage channels to demonstrate adequate disposition of storm water runoff. A grading plan is required if more than one hundred (100) cubic yards of material will be disturbed. Include slope calculations, contours and erosion control.~~
- ~~13. The location and elevation of one hundred (100)-year flood plains, and all other areas subject to seasonal ponding.~~
- ~~14. The location of special setback lines along with the location, widths and purpose of all existing or proposed easements on or abutting the tract.~~
- ~~15. The location and size of all existing and proposed sanitary sewer mains, storm drains, water lines, fire hydrants, streetlights and irrigation canals on and within one hundred (100) feet of the tract. Include wells, septic tanks, and drain fields, if applicable.~~
- ~~16. The location of waste handling facilities and outdoor storage areas, along with screening technique.~~
- ~~17. The typical cross sections of proposed streets, showing all utility improvements proposed within the street right-of-way and adjacent easements at such scale to clearly show the details thereof.~~
- ~~18. Existing Transportation: Location, names, surface types, grades, pavement dimensions of public and private streets, pedestrian ways, driveways, alleys, any off-street parking, and rights-of-way on and abutting the tract. Source of datum shall be indicated on the plan and be acceptable to the review body.~~
- ~~19. Proposed Transportation: Location, names, surface types, grades, pavement dimensions of public and private streets, pedestrian ways, driveways, alleys, any off-street parking and rights-of-way on and providing service for the direct benefit of the proposed land division, including approximate radius of curves and grades. Include entry and exit points for motor vehicles and pedestrians using off-street parking areas, and internal circulation patterns, and location of any street plugs~~

~~required to direct future street extensions.~~

~~20. A Future Transportation Plan: The pattern of future transportation routes from the boundaries of the proposed land division to include other tracts within two hundred (200) feet of the proposed land division and properties to each side of a proposed route which will primarily benefit the proposed subdivision.~~

~~a. A future transportation plan is not required for any portion of the area for which a proposed street layout has been established by a transportation system plan previously approved by the governing body.~~

~~b. The planning commission may adopt a future transportation plan submitted by an applicant, provided the transportation plan does not conflict with a transportation system plan previously approved by the governing body and contains only local streets.~~

~~c. If a future transportation plan submitted by an applicant does conflict with a transportation system plan previously approved by the governing body or contains other than local streets, review and adoption of the future transportation plan by the city council will be required before a tentative plan can be approved.~~

~~21. The numbering, location, dimensions and lot sizes (in square feet or acres) of all proposed lots and blocks.~~

~~22. The building envelopes necessary to show compliance with other setback requirements. Approved building envelopes shall be enforceable and recorded as a supplement to the final plat and/or covenants, conditions and restrictions.~~

~~23. The locations of all areas to be dedicated or reserved for public use, with the purpose, condition or limitations of such reservations clearly indicated.~~

~~C. Development Schedule. The applicant shall submit a construction timeline schedule showing all major events. If the project is to be constructed in phases, a schedule shall be submitted for each phase. Areas designated for staged development shall be indicated on the tentative plan.~~

~~D. Deed Restrictions. The applicant shall submit a copy of any existing or proposed covenants, conditions and restrictions (CC&R's) which will be applicable to the subject property.~~

~~E. Photographs of Adjacent Building(s) or Structure(s) and the Site. The applicant shall submit photographs of all adjacent structures as well as photographs of the site.~~

~~F. Application Fee. The applicant shall pay an application fee for processing all applications. No part of any application fee is refundable. The amount for such fees shall be established by resolution of the city council.~~

~~G. Legal description of the property. The applicant shall submit a land division guarantee issued by a title insurance company in the name of the owner of the land showing all parties whose consent is necessary and their interest in the premises.~~



~~H. Supplemental Information. The applicant shall submit the following information:~~

~~1. Land use tabulation:~~

- ~~a. Total site area (acres).~~
- ~~b. Area dedicated to public right of way (acres).~~
- ~~c. Useable site area (Item a minus item b).~~
- ~~d. Density factor used (du/acre).~~
- ~~e. Maximum allowable dwelling units (du = item c times item d).~~
- ~~f. Actual dwelling units (du) total and per stage of development.~~
- ~~g. Area recreation/open space (acres and percent useable site).~~

- ~~2. If the subdivision proposal is adjacent to any resource land in the county, a written mitigation plan is required that describes buffering techniques that will be implemented.~~
- ~~3. A written disclosure to that effect that there are no special or unusual seismic, soil or geologic conditions on the site. If there are any such conditions, an engineer's report and recommendations as to mitigation of those concerns are required.~~
- ~~4. A written statement that there are no wetlands on the subject property. If, when compared to National Wetlands Inventory, Comprehensive Plan, and soils maps, there are any wetlands identified on or potentially impacted by the tentative plan proposal, the Division of State Lands shall be notified at least sixty (60) days prior to any hearing.~~
- ~~5. A statement showing the source and availability of the municipal water supply, sanitary sewer, adequate drainage, public parks, schools, transportation facilities, and police and fire services.~~
- ~~6. A statement as to how the proposal satisfies all zoning requirements.~~

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~~16.12.080 Additional requirements for commercial and industrial proposals:~~

~~For commercial and industrial land to be eligible for a subdivision, the applicant must submit a legitimate development proposal to substantiate the need for the subdivision and the ability of the resulting parcels to provide adequate off-street parking and loading. The applicant shall submit the following:~~

- ~~A. Parking Plan. A parking plan with adequate, convenient, well-marked and safely lighted off-street parking and bicycle parking. Include shade trees and landscaping to ameliorate the effect of paved areas. Access for persons with disabilities is required. Loading areas must be safely integrated.~~
- ~~B. Pedestrian Plan. A pedestrian circulation plan that provides adequate pedestrian access in the vicinity and within the project. The plan must provide hard surfaced, safely lighted walkways suitable for use by persons with disabilities.~~
- ~~C. Traffic Plan. A traffic plan that provides adequate vehicle circulation in the vicinity of and within the project. The traffic plan must coordinate internal and external transportation networks, including bikeways and mass transit to extent possible. Traffic noise must be minimized.~~

~~D. — Loading Plan. A plan for loading dock or space that provides adequate room for safe truck backing and turning movements.~~

~~E. — Public Safety Plan. A plan for minimizing the likelihood of criminal activity by eliminating areas that are neither clearly private nor clearly public and by using landscaping that allows maximum observation while providing desired aesthetics.~~

~~F. — Perimeter Plan. A plan for the perimeter of the project to protect adjacent properties from noise, visual incompatibility, light glare, heat pumps, fans, or other potential nuisances. This may be accomplished through screening, setbacks, siting or other means.~~

~~16.12.100 — Conversion plan requirement.~~

~~If the land being subdivided is only a part of the land owned or controlled by the applicant or if the land will have additional division potential after the current proposal is completed, the applicant must submit a conversion plan for the unsubdivided portion.~~

~~The conversion plan must provide all of the graphic information required for a land subdivision as found in Sections 16.12.06 (B) (2), (3), (5), (6), (11), (12), (13), (14), (18), and (19) above, based on the ultimate practical number of lots allowable under the zoning. The conversion plan must show the location and gradient of the streets and how they will connect to existing streets and streets proposed for the new subdivision. The conversion plan must show how the presently proposed division will be compatible with the allowable ultimate land division.~~

~~The conversion plan must be simultaneously recorded with the approved subdivision plat and shall be binding unless amended with the planning commission's approval.~~

~~16.12.120 — Preparation of tentative plan.~~

~~The tentative plan must be prepared under the direction of a registered surveyor licensed by the state of Oregon.~~

~~16.12.140 — Determination of a complete application.~~

~~The planning department will determine the completeness of the application within thirty (30) days of submission as required by ORS 227.178. If an application is incomplete, the city shall notify the applicant in writing of exactly what information is missing and allow the applicant to submit the missing information.~~

~~The applicant must submit all additional information one hundred and eighty (180) days from the date of initial submission. The application shall be deemed complete for purposes of this subsection upon receipt by the city of the missing information.~~

~~16.12.160 — Referral for review.~~

~~On the same day the applicant submits the application to the city, the applicant must also mail or deliver copies of the tentative plan to each of the following:~~

- ~~A. — School district.~~
- ~~B. — Oregon Department of Transportation.~~
- ~~C. — Telephone, garbage, and cable TV utilities.~~
- ~~D. — County surveyor.~~

~~E. Irrigation district if the property is within the district.~~

~~F. Affected Governmental Agencies and special districts, and others, as determined by the planning director.~~

~~Any comments received will be included in the staff report as part of the official record and distributed to the review body.~~

~~16.12.180 Limited land use action.~~

~~Processing a land subdivision is a limited land use decision requiring discretionary decision-making. Subdivision approval shall be considered a "limited land use decision" and subject to the procedures established by ORS 197.195. Following review and a recommendation by the development review board, the planning commission shall approve, approve with condition(s), or deny the application based on the evidence and the application of the zoning ordinance criteria.~~

~~16.12.200 Proposal presentation.~~

~~The licensed professional who is retained by the applicant to prepare the application, including the tentative plan, should supervise the presentation of the proposal before the planning commission and must be available for questioning during the presentation.~~

~~16.12.220 Burden of proof.~~

~~The applicant must produce evidence which supports the requisite findings of compliance with all the standards and criteria applicable to subdivisions.~~

~~16.12.240 Criteria for approval.~~

~~The review body shall approve, approve with conditions or deny the request, based upon the following criteria:~~

~~A. That the applicant has submitted all the information required by this chapter.~~

~~B. That the project will maintain a high quality visual appearance.~~

~~C. That the project will be compatible with the use or character of any adjacent resource land.~~

~~D. That the project conforms to or minimally alters existing topographic features and seeks to preserve natural features. Development in areas adjacent to streams and those characterized by steep slopes has been limited to the extent necessary to minimize risk to acceptable levels as determined by the Bandon Comprehensive Plan, or where objective levels are not available, as determined by the planning commission.~~

~~E. That the project identifies, preserves and protects natural wildlife habitats and wetlands.~~

~~F. That the project demonstrates the adequate availability of the following:~~

- ~~1. public sanitary sewers;~~
- ~~2. storm drainage facilities;~~
- ~~3. municipal water facilities;~~
- ~~4. transportation facilities;~~

- 
- ~~5. electric service; and~~
  - ~~6. improved parks or recreation facilities.~~

~~Alternately, that the applicant agrees to provide, concurrent with the subdivision development, such improvements as would bring any inadequate facilities and services to the level necessary to accommodate the project.~~

- ~~G. That the project's proposed transportation plan affords the most economic, safe, efficient and least environmentally damaging circulation of people, goods, and information and layout of utilities and parking possible. If a future transportation plan is required, it shall be approved and adopted by the city council prior to submission of the tentative plan application.~~
- ~~H. That the project demonstrates that adjoining land under the same or separate ownership can either be developed or be provided access that will allow its development in accordance with the Bandon Comprehensive Plan and this code, and with the Coos County Comprehensive Plan and code, where applicable.~~
- ~~I. That the project complies with all design standards contained in this title and applicable portions of the comprehensive plan, this code, and state and federal laws.~~
- ~~J. That the project meets all the requirements of the zoning district in which the project is located.~~

~~16.12.260 Conditions and limitations.~~

~~In granting a tentative subdivision plan approval, the planning commission may impose such reasonable conditions or limitations as it deems necessary to assure compliance with all applicable criteria and standards, or state and federal laws. The planning commission may require dedication of land and easements and may specify conditions or modifications in the drawing to facilitate development, including but not limited to deed restrictions and constructed on-site and off-site improvements. All conditions of approval shall be satisfied prior to final plat approval unless otherwise specified by the planning commission.~~

~~16.12.280 Appeal.~~

~~The final action of the planning commission may be appealed in as provided in Chapter 17.124.~~

~~16.12.300 Revised tentative plan.~~

~~Prior to receiving a development permit for the tentative plan, the applicant shall submit a revised plan to the planning commission demonstrating compliance with the conditions of tentative approval. The planning commission may waive this requirement if no significant modifications are required. Any significant modifications must be approved by the planning commission.~~

~~16.12.320 Filing tentative plan.~~

~~After the tentative plan has been approved or approved as revised, two copies are to be indelibly inscribed with the approval date and a reference adequately directing the reader to any~~

documents that describe conditions of approval. One copy of the inscribed tentative plan is to be given to the applicant and one copy is to be filed with the city planning department.

~~16.12.340 — Expiration of tentative plan.~~

~~Within eighteen (18) months following the effective date of approval of a tentative plan, improvements must be completed and the final plat shall be submitted to the planning director and shall incorporate any modification or conditions required by the approval of the tentative plan. If the improvements have not been completed or the final plat has not been submitted for approval, then the tentative plan shall become null and void unless appropriate assurances (e.g. bonding) have been received by the city.~~

~~The planning commission may extend the validity for good cause, for up to one additional year. An extension must be applied for in writing before the original eighteen (18) months expire. Upon granting such an extension, the planning director shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant taking the tentative plan back through the application process and that no other development approval would be affected.~~

~~16.12.360 — Staged Development.~~

~~When an applicant desires to record and develop subdivision plats in stages, the commission may authorize a time for the submission of the final plat and development in various stages. The time period may exceed one year but in no case shall the total time period for all stages exceed five years without re-submission of the tentative plan application for review and approval. Each stage so platted and developed shall conform to the applicable requirements of this code. Stages platted after one year are subject to further review against current standards for compliance with modifications or any changes in the implementing regulations.~~

~~16.12.400 — Permit runs with land.~~

~~A land subdivision development permit runs with the land and continues to be valid upon a change of ownership. However, if the city grants a land subdivision permit and the specified development is not effectuated as agreed, the land reverts to the original configuration and the permit is void.~~

## Chapter 16.16

### SUBDIVISION FINAL PLATS

#### Sections:

- ~~16.16.020 — Scope.~~
- ~~16.16.040 — Submittal time limit.~~
- ~~16.16.050 — Implied subdivision plat approval.~~
- ~~16.16.060 — Preparation of final plat.~~
- ~~16.16.080 — Submittal of final plat.~~
- ~~16.16.100 — Supplementary information.~~
- ~~16.16.140 — Determining complete submittal and general conformance.~~
- ~~16.16.160 — Action on final plat.~~
- ~~16.16.180 — Criteria for approval.~~
- ~~16.16.200 — Final action.~~
- ~~16.16.220 — Appeal.~~
- ~~16.16.240 — Signatures on final plat.~~
- ~~16.16.260 — Filing an approved final plat.~~
- ~~16.16.280 — Permit runs with land.~~

#### ~~16.16.020 — Scope.~~

~~The subdivision final plat is a document that provides information necessary to the legal description of land, easements, right of way, and other obligations. The final plat for a land subdivision must be approved by the city before it can be recorded by the county clerk. This assures that the subdivision is consistent with any conditions imposed at the tentative plan stage of planning.~~

#### ~~16.16.040 — Submittal time limit.~~

~~After resubmittal and acceptance of the corrected tentative plan and additional supplementary information, the final plat shall be prepared in compliance with the terms of its tentative plan approval. The subdivision final plat must be submitted not more than eighteen (18) months after the date the tentative plan was approved.~~

#### ~~16.16.050 — Implied subdivision plat approval.~~

~~A subdivision final plat must subsequently be approved if it conforms to the approved tentative plan, all conditions, and complies with all other city and state requirements.~~

#### ~~16.16.060 — Preparation of final plat.~~

~~The subdivision final plat must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor. All subdivisions shall be surveyed by a registered professional land surveyor, setting lawfully approved monuments at all the parcel corners. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the subdivision process. Signatures of all property owners whose properties are altered by the subdivision must be included on the final plat.~~

#### ~~16.16.080 — Submittal of final plat.~~

~~At the time of submittal of the final plat, all required materials and required fees shall be~~

~~accepted by the city prior to review of the final plat. The final plat shall be prepared under the supervision of a licensed professional land surveyor and contain the following information, along with any additional information required by Oregon Revised Statute Chapter 92, Section 209.250 and other applicable ORS statutes:~~

- ~~A. The date, north arrow, and scale.~~
- ~~B. Legal description of the tract boundaries.~~
- ~~C. Name of the owner or owners, sub-dividers, and engineer or surveyor.~~
- ~~D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
  - ~~1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision;~~
  - ~~2. Adjoining corners of adjoining subdivisions;~~
  - ~~3. City boundary lines when crossing or adjacent to the subdivision;~~
  - ~~4. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this title.~~~~
- ~~E. The exact location and width of streets and easements intercepting the boundary of the tract.~~
- ~~F. Tract, block and lot or parcel boundary lines and street rights-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points or curvature, and tangent bearings. Approximate high water lines and high banks for any creek, lake or other body of water. Tract boundaries and street bearings shall be shown to the nearest thirty (30) seconds with bases of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.~~
- ~~G. The width of the portion of streets being dedicated and the width of existing right of way. For streets on a curvature which are being dedicated, curve data shall be based on the street centerline dimensions, the radius and central angle shall be indicated.~~
- ~~H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. New easements shall be referenced in the owner's certificates of dedication.~~
- ~~I. Lot numbers beginning with the number "1" and numbered consecutively.~~
- ~~J. The area of each lot or parcel which is one acre or larger to the nearest hundredth of an acre. If less than one acre, the area to the nearest square foot.~~
- ~~K. Block numbers in any addition in the subdivision of the same name shall be a continuation of the numbering in the original subdivision. No other block numbers shall be used.~~

~~L. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale. The following phrasing shall be used when identifying open space dedications:~~

~~1. "Common open space" shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved~~

~~Homeowners Association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.~~

~~2. "Public open space" shall be used when identifying those parcels of land dedicated in fee simple to the city of Bandon or Coos County for open space purposes.~~

~~3. "Open space" or "landscape easement" shall be used to identify that portion of a lot or lots that has established an open space or landscape easement agreement with the city of Bandon, or a homeowners association.~~

~~M. The following certificates which may be combined where appropriate:~~

~~1. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat;~~

~~2. A certificate signed and acknowledged as above, dedicating all lots for land shown on the final plat intended for the exclusive use of the owners in the subdivision, their licensees, visitors, tenants and servants;~~

~~3. A certificate conforming to ORS 92.060 through 92.070 with the seal and signature of the surveyor responsible for the survey and final plat;~~

~~4. A certificate or transfer deed signed by all parties having any proprietary interest in the land, dedicating to the public all streets and roads, without any reservation or restriction other than reversionary rights upon vacation of any such street or road, and easement for public utilities;~~

~~5. Other certifications now or hereafter required by law.~~

~~N. Statement of Water Rights: A statement of water rights noted on the subdivision plat together with the water rights certificate number, if applicable, per ORS 92.120 (5).~~

~~O. Plat Notes: The city may require, through the terms of approval, additional notes to be placed on the face of the plat including, but not limited to, restrictions, notices and special conditions which are peculiar to the subdivision. The city shall not require that the plat show graphically any information or requirement that is or may be subject to administrative change or variance.~~

~~16.16.100 Supplementary information:  
The applicant must submit:~~

~~A. A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises, and written documentation stating that all taxes and assessments are paid to date. The report must not be more than thirty (30) days old at the time it is submitted.~~

~~B. A copy of all final conditions, covenants and deed restrictions applicable to the subdivision.~~



~~C. A copy of any dedication agreement requiring separate documents.~~

~~D. Contracts with the private companies that will install public utilities and improvements.~~

~~E. Sheets and drawings showing the following:~~

- ~~1. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any;~~
- ~~2. The computation of distances, angles, and courses shown on the plat;~~
- ~~3. Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and street highway stationing;~~
- ~~4. One hundred (100) year floodplain designation, as applicable.~~

~~F. Building envelope and/or setback lines, if any, are to be made a part of the subdivision's deed restrictions.~~

~~G. Any and all instruments of improvement guarantees, including warranty bonds.~~

~~H. Payment of one hundred (100) percent of all outstanding inspection fees incurred by the city and bonding for one hundred (100) percent of all incomplete improvements and estimated inspection fees that are likely to be incurred by the city with any remaining work yet to be completed.~~

~~16.16.140 Determining complete submittal and general conformance.~~

~~Within 18 (eighteen) months of tentative plan approval, or not later than the extension date authorized by the planning commission, a final plat shall be submitted to the planning director for review and processing. Within thirty (30) days of submission, the planning director shall determine whether or not the final plat generally conforms with the approved tentative plan and conforms with the applicable requirements of this code. If the planning director determines that generally the final plat fails to conform, or if the required supplemental information required in Section 16.16.10 is inadequate, then the applicant shall be advised and afforded an opportunity of up to thirty (30) days to make corrections.~~

~~16.16.160 Action on final plat.~~

~~Processing a subdivision final plat is an administrative action that does not require discretionary decision-making. The final plat and all required material is judged solely on its merits by the planning director. If the application fails to comply with all objective criteria, the subdivision final plat must be denied.~~

~~16.16.180 Criteria for approval.~~

~~The planning director shall approve or deny the request based upon the following criteria:~~

~~A. The final plat is accompanied by all of the supplemental information asked for in this chapter.~~

~~B. The layout shown on the subdivision plat conforms with the approved tentative plan and complies with all conditions of approval.~~

~~C. The subdivision plat is technically correct.~~

~~D. All required off-site and on-site improvements and other conditions of approval have been satisfied or guaranteed.~~

~~—~~

~~E. The governing body has adopted any proposed future transportation plan.~~

~~16.16.200 Final action.~~

~~The planning director shall review the final plat and shall state findings to approve or deny the request. A denial of the final plat shall render the tentative plan void.~~

~~16.16.220 Appeal.~~

~~The final action of the planning director may be appealed as provided in Chapter 17.124.~~

~~16.16.240 Signatures on final plat.~~

~~Following the final action of approval by the planning director, the applicant shall obtain the following signatures on the original of the final plat:~~

~~A. The county surveyor;~~

~~B. The director of any special district shown on the final plat;~~

~~C. The county assessor certifying that all taxes on the property have been paid or bonded for in accordance with state law;~~

~~D. The city administrative services department certifying that all fees, charges, and special assessments on the property have been paid;~~

~~E. Following A through D above, the planning director, or other officials as required by law;~~

~~F. Following E above, the chairperson of the Bandon planning commission.~~

~~16.16.260 Filing an approved final plat.~~

~~After obtaining all required approvals and signatures, the developer shall:~~

~~A. Within thirty (30) days, file the plat with the county recorder. Failure to file within thirty (30) days will render the final plat null and void and will require re-submission of the tentative plan in the same manner as a new tentative plan.~~

~~B. File one print each of the approved and recorded plat with the city planning department and the city engineer.~~

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~~16.16.280 — Permit runs with land.~~

~~A subdivision final plat runs with the land and continues to be valid upon a change of ownership. However, if the city grants a subdivision plat and the specified development is not effectuated as agreed, within applicable time limits, the land reverts to the original configuration and the tentative plan and final plat approvals are rendered void.~~

## CHAPTER 16.32

### LAND PARTITIONS

#### Sections:

- ~~16.32.020 — Scope.~~
- ~~16.32.030 — Definition.~~
- ~~16.32.040 — Application conference.~~
- ~~16.32.060 — Application requirements.~~
- ~~16.32.080 — Quasi-judicial/expedited action.~~
- ~~16.32.100 — Conversion plan requirement.~~
- ~~16.32.120 — Conversion plan content.~~
- ~~16.32.160 — Mandatory street access.~~
- ~~16.32.180 — Flag lot standards.~~
- ~~16.32.200 — Approval criteria.~~
- ~~16.32.220 — Conditions and limitations.~~
- ~~16.32.240 — Partition plat.~~
- ~~16.32.260 — Filing approved plat.~~
- ~~16.32.280 — Permit runs with land.~~
- ~~16.32.300 — Appeals.~~

#### ~~16.32.020 — Scope.~~

~~The land partition is used in situations where lot lines need to be changed or added. If a street is created, the action is considered to be a subdivision and subject to the requirements of Chapter 16.12.~~

#### ~~16.32.030 — Definition.~~

~~A land partition is the division of one lot into two or three lots within a period of one calendar year. This definition is subject to any exclusions provided for by state law.~~

#### ~~16.32.040 — Application conference.~~

~~Prior to filing an application, a prospective applicant shall hold an application conference with the planning director or his/her designee. The purpose of an application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this title, and to determine which application materials must be submitted to constitute a complete application.~~

#### ~~16.32.060 — Application requirements.~~

~~All applicants shall submit to the city information and materials consistent with the requirements of this section. The planning department will determine the completeness of the application within thirty (30) days of submission as required by ORS 227.178. If an application is incomplete, the city shall notify the applicant in writing of exactly what information is missing and allow the applicant to submit the missing information.~~

~~The applicant must submit all additional information one hundred and eighty (180) days from the date of initial submission. The application shall be deemed complete for purposes of this subsection upon receipt by the city of the missing information.~~

~~A. Completed Application Form. A completed application form is one signed by the owner of record of the real property addressed by the application. If more than one ownership is involved, a signed notarized statement from each property owner agreeing to participate in the project as a group must be submitted. An application form may also be signed by the duly authorized representative of the owner of record if such authorization is evidenced by a properly executed power of attorney.~~

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~~B. Site Plan. A site plan is required only to the extent necessary to adequately and reasonably permit findings that the provisions of this chapter have been met. The planning director is empowered to waive the submission of any of the following site plan items, which are deemed unnecessary or inapplicable based on the nature, scope and significance of the proposed project. Waiver of application items, if any, shall occur following an application conference. If the planning director position is vacant, all application materials must be submitted.~~

~~The applicant shall submit three copies of a site plan, accurately drawn to a scale of sufficient size to illustrate the following site plan details as determined to be required during the application conference and the review for completeness:~~

- ~~1. The location and dimension of property boundaries and the location, name, surface type, and width of public and private streets, pedestrian ways, driveways, and any off-street parking, along with a north point and indication of scale;~~
- ~~2. The accurate location and outline of the exterior walls of all existing buildings and structures, if any, with the square footage, uses, and heights of each clearly noted. Include setback dimensions for front, side and rear yards;~~
- ~~3. The site plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of five percent, rock outcroppings, drainage swales, springs, woodlands and other physical features which may influence future site layout and design. If there are any identified special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application.~~
- ~~4. Street light, fire hydrant, water, sanitary sewer and storm drain locations within one hundred (100) feet of the subject property. Show direction of flow for the site;~~
- ~~5. Wells, septic tanks and drainfields, if applicable;~~
- ~~6. Flood elevation of one hundred (100) year floodplain, if applicable;~~
- ~~7. Zoning, total land area, section lines, corners, city boundaries, monuments and lot and block dimensions and identifying numbers;~~
- ~~8. Location and purpose of easements, if applicable;~~
- ~~9. Title block with section, township and range; street address; title of proposal; names of applicant and owner; name and stamp of person preparing the plan (if applicable); and date of drawing.~~

~~C. Application Fee. An application fee for processing all applications shall be charged by the city. No part of any application fee is refundable. The amount for application fees shall be established by resolution of the city council.~~

~~D. — Legal description of the existing property.~~

~~E. — Vicinity Map. Mark the location of the proposal on the vicinity map available from the city offices.~~

~~F. — Deed Restrictions. A copy of any covenants, conditions and restrictions applicable to the subject property.~~

~~If an application is incomplete, the city shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The applicant has one hundred and eighty (180) days from the date of initial submission to submit all additional information. The application shall be deemed complete for purposes of this subsection upon receipt by the city of the missing information.~~

~~16.32.080 — Quasi-judicial/expedited action.~~

~~Processing a partition is subject to the expedited procedures put forth in ORS 197.360 except as noted below. A decision by the local governing body must be reached within sixty-three (63) days of receipt of a completed application based on whether it satisfies the substantive requirements of this title. Appeal procedures for expedited land divisions are contained in ORS 197.375.~~

~~Processing a commercial land partition proposal is a quasi-judicial action requiring discretionary decision making. Commercial land partition approval is a land use decision and subject to the procedures established by ORS 197.763. Following review and recommendation by the development review board, the planning commission has the authority to base its decision on the evidence and interpretation of comprehensive plan and zoning ordinance criteria and standards.~~

~~16.32.100 — Conversion plan requirement.~~

~~At the time an application is made to divide a parcel into any number of lots, a conversion plan must also be submitted, if the parcel will have additional division potential after the current proposal is completed. The conversion plan must show how the parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning.~~

~~16.32.120 — Conversion plan content.~~

~~The conversion plan must provide all of the graphic information required for a land subdivision or a partition, as applicable, based on the ultimate number of lots allowable under the zoning. The conversion plan must show how the presently proposed division will be compatible with the allowable ultimate land division. The conversion plan must be simultaneously recorded with the approved partition plat and shall be binding unless amended with the planning commission's approval.~~

~~16.32.160 — Mandatory street access.~~

~~After partition, all resulting lots must directly access an open street with a minimum frontage dimension of forty (40) feet.~~

~~16.32.180 — Flag lots standards.~~

~~A. A deep lot may be split into a front and rear lot, creating a maximum of one flag lot, if the original lot cannot be otherwise divided separately or in conjunction with adjoining lots.~~

~~B. Flag lots which would take access on an identified future or existing collector street shall not be allowed.~~

~~C. Flag lots which would take access on a local street shall only be allowed through the granting of a variance by the planning commission in conformance with Chapter 17.112. If granted, the divider shall recognize that the subject lots have no further division potential. In addition to variance approval and the requirements of this chapter, any flag lot shall meet the following standards:~~

~~1. The length, width and yard dimensions of each resulting lot must be at least the minimum required in the zoning district, with the front lot retaining a minimum lot depth of ninety (90) feet;~~

~~2. The rear lot must have an access to the street that is at least twenty five (25) feet wide with twenty five (25) feet of street frontage. The "flagpole" access must be conveyed with ownership of the rear lot and be an integral part of the rear lot;~~

~~3. The driveway access shall be improved to a permanent surface of asphaltic concrete, Portland cement, or gravel acceptable to the public works department with a minimum width of twelve (12) feet. Shared access agreements benefitting two adjacent parcels may be allowed where two accesses are less than fifty (50) feet apart or the resulting configuration of the lots permits shared access.~~

~~16.32.200 Approval criteria.~~

~~The application must meet all of the following objective criteria:~~

~~A. The submission contains all of the information asked for in the application.~~

~~B. The application does not violate any city or state regulations, including but not limited to lot configuration requirements, unimpeded drainage, accessibility by public utilities and vehicular/foot traffic and zoning requirements.~~

~~C. The project is compatible and suitable within the context of its surroundings. This shall include, but not be limited to, consideration of human scale, street scape, landscaping, and any view shed, noise and lighting impacts.~~

~~D. The development will be compatible with the use or character of any adjacent resource land.~~

~~E. Development conforms to or minimally alters existing topographic features and seeks to preserve natural features. Development in areas adjacent to streams and those characterized by steep slopes has been limited to the extent necessary to minimize risk to acceptable levels as determined by the Bandon Comprehensive Plan, or where objective levels are not available, as determined by the planning commission.~~

~~F. Natural wildlife habitats and wetlands have been identified, preserved and protected.~~

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~~G. Adjoining land under the same or separate ownership can either be developed or be provided access that will allow its development in accordance with the Bandon Comprehensive Plan and this code, and with the Coos County Comprehensive Plan and code, where applicable.~~

~~H. The drawing is technically correct and the final partition plat conforms with the approved site plan.~~

~~16.32.220 — Conditions and limitations.~~

~~In granting a partition, the planning commission may impose such reasonable conditions or limitations as it deems necessary to assure compliance with zoning ordinance criteria and standards. The planning commission may require dedication of land and easements, and may specify conditions or modifications in the drawing to facilitate development, including but not limited to deed restrictions and constructed improvements. Any conditioned changes shall be reviewed by the planning director or his/her designee, prior to recording the final partition plat.~~

~~16.32.240 — Partition plat.~~

~~A partition plat conforming to all applicable provisions of ORS Chapter 92: Approval of Plans; ORS Chapter 209: County Surveyors; and other applicable ORS requirements must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor. Prior to recording, the survey must be monumented. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the partition process. Signatures of all property owners whose properties are directly affected by the partition must be included on the application map.~~

~~16.32.260 — Filing approved plat.~~

~~Within one hundred and eighty (180) days after the partition has been approved by the planning commission, all improvements must be completed and two blueline copies of the indelibly inscribed and recorded partition plat, with the approval date and a reference adequately directing the reader to the file where conditions of approval are stored, are to be delivered to the city. If the improvements have not been completed or guaranteed or the two copies of the partition plat are not submitted, then the partition shall become null and void. The planning commission may extend a partition approval for an additional period of up to one year. (Ord. 1471 (part), 2001)~~

~~16.32.280 — Permit runs with land.~~

~~A land partition runs with the land and continues to be valid upon a change of ownership.~~

~~16.32.300 — Appeals.~~

~~In the case of expedited partitions, appeals may be filed in accordance with the requirements of ORS 197.75. In the case of quasi-judicial action, appeals may be filed in accordance with the requirements of Chapter 17.124.~~





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## CHAPTER 16.36

### PROPERTY LINE ADJUSTMENTS

#### Sections:

- ~~16.36.020 — Scope.~~
- ~~16.36.040 — Application conference.~~
- ~~16.36.060 — Application requirements.~~
- ~~16.36.080 — Administrative action.~~
- ~~16.36.140 — Mandatory street access.~~
- ~~16.36.150 — Flag lot standards.~~
- ~~16.36.160 — Objective criteria.~~
- ~~16.36.180 — Property line adjustment map.~~
- ~~16.36.200 — Filing approved plat.~~
- ~~16.36.210 — Appeals.~~
- ~~16.36.220 — Permit runs with land.~~

#### ~~16.36.020 — Scope.~~

~~Lots created in years past may not meet modern land use needs. Consequently a method for adjusting the dividing lines between adjacent lots to improve usefulness is necessary. The city provides a way for unusable or poorly dimensioned lots to be reconfigured to meet modern land use standards.~~

~~A map of survey must be prepared as a part of the application process if the lot line(s) being moved require such a map, subject to the requirements of ORS 92.060.~~

#### ~~16.36.040 — Application conference.~~

~~Prior to filing an application, a prospective applicant shall hold an application conference with the planning director or his/her designee. The purpose of an application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this title, and to determine which application materials must be submitted to constitute a complete application.~~

#### ~~16.36.060 — Application requirements.~~

~~All applicants shall submit to the city information and materials consistent with the requirements of this section.~~

~~A. — Completed Application Form. A completed application form is one signed by the owner of record of the real property addressed in the application. If more than one ownership is involved, a signed notarized statement from each property owner agreeing to participate in the project as a group must be submitted. An application form may also be signed by the duly authorized representative of the owner of record if such authorization is evidenced by a properly executed power of attorney.~~

~~B. Site Plan. A site plan is required only to the extent necessary to adequately and reasonably permit findings that the provisions of this chapter have been met. The planning director is empowered to waive the submission of any of the following site plan items, which are deemed unnecessary or inapplicable based on the nature, scope and significance of the proposed project.~~

~~Waiver of application items, if any, shall occur following an application conference. If the planning director position is vacant, all application materials must be submitted.~~

~~The applicant shall submit three copies of a site plan, accurately drawn to a scale of sufficient size to illustrate the following site plan details as determined to be required during the application conference and the review for completeness:~~

- ~~1. The location and dimension of property boundaries and the location, name, surface type and width of public and private streets, pedestrian ways, driveways and any off-street parking, along with a north point and indication of scale;~~
- ~~2. The accurate location and outline of the exterior walls of all existing buildings and structures, if any, with the square footage, uses and heights of each clearly noted. Include setback dimensions for front, side and rear yards;~~
- ~~3. The site plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of five percent, rock outcroppings, drainage swales, springs, woodlands, and other physical features which may influence future site layout and design. If there are any identified special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application;~~
- ~~4. Street light, fire hydrant, water, sanitary sewer and storm drain locations within one hundred (100) feet of the subject property. Show direction of flow for the site;~~
- ~~5. Wells, septic tanks and drain fields, if applicable;~~
- ~~6. Flood elevation of one hundred (100)-year floodplain, if applicable;~~
- ~~7. Zoning, total land area; section lines, corners, city boundaries, monuments, and lot and block dimensions and identifying numbers;~~
- ~~8. Location and purpose of easements, if applicable;~~
- ~~9. Title block with section, township and range; street address; title of proposal; names of applicant and owner; name and stamp of person preparing the plan (if applicable); and date of drawing.~~

~~G. Application Fee. An application fee for processing all applications shall be charged by the city. No part of any application fee is refundable. The amount for application fees shall be established by resolution of the city council. Fees shall not exceed~~

~~the actual average cost of processing services incurred by the city.~~

~~D. Legal description of the existing property.~~

~~E. Vicinity map. Mark the location of the proposal on the vicinity map available from the city offices.~~

~~F. Deed Restrictions. A copy of any covenants, conditions, and restrictions applicable to the subject property.~~

~~If an application is incomplete, the city shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The applicant has one hundred and eighty (180) days from the date of initial submission to submit all additional information. The application shall be deemed complete for purposes of this subsection upon receipt by the city of the missing information.~~

~~16.36.080 Administrative action.~~

~~Processing a property line adjustment permit is an administrative action that does not require discretionary decision-making. The application is judged solely on its merits by the planning director after review by the development review board. If the application fails to comply with all objective criteria for a property line adjustment, the permit must be denied.~~

~~16.36.140 Mandatory street access.~~

~~After property line adjustment, all lots must directly access either an open street or an easement that benefitted the subject property(s) prior to the property line adjustment. The resulting parcels must maintain forty (40) feet of frontage on the open street.~~

~~16.36.150 Flag lot standards.~~

~~A property line adjustment that creates a flag lot shall not be approved administratively and shall be applied for in the manner specified in Section 16.32.180.~~

~~16.36.160 Objective criteria.~~

~~The application must meet all of the following objective criteria:~~

~~A. The submission contains all of the information asked for in the application.~~

~~B. The application does not violate any city or state regulations, including but not limited to lot configuration requirements, unimpeded drainage, accessibility by public utilities and vehicular/foot traffic and zoning requirements.~~

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~~C. The drawing is technically correct and the map of survey conforms with the approved site plan.~~

~~16.36.180 Property line adjustment map.~~

~~The map of survey of the property line adjustment, conforming to applicable provisions of Oregon state law, must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor who must certify the correctness of the survey of the lots being adjusted. Prior to recording, the survey must be monumented if required. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the property line adjustment. Signatures of all property owners whose property lines are directly affected by the adjustment must be included on the map. The map shall contain a signature block for the planning director, whose signature shall be required prior to recording.~~

~~16.36.200 Filing approved plat.~~

~~Within one hundred and eighty (180) days after the map of survey has been approved, any improvements must be completed and two blueline copies of the indelibly inscribed and recorded map of survey with the approval date, are to be delivered to the city. If the improvements have not been completed or the two copies of the map of survey have not been submitted, the map of survey shall become null and void. The planning director may extend a property line adjustment permit for an additional period of up to one year.~~

~~16.36.210 Appeals.~~

~~Appeals may be made in accordance with the requirements of Chapter 17.124.~~

~~16.36.220 Permit runs with land.~~

~~A property line adjustment runs with the land and continues to be valid upon a change of ownership.~~

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## Chapter 16.12

### CONDITIONAL USES

#### Sections:

- 16.12.010 Authorization to grant or deny conditional uses.
- 16.12.020 Authorization to impose conditions.
- 16.12.030 Existing uses.
- 16.12.040 Approval standards for conditional uses.
- 16.12.050 Conditional use cannot grant variances.
- 16.12.060 Application for a conditional use.
- 16.12.070 Major modifications to approved plans.
- 16.12.080 Minor modification(s) of a conditional use permit.
- 16.12.090 Standards governing conditional uses.
- 16.12.100 Time limits on meeting physical improvement requirements and conditions.

#### 16.12.010 Authorization to grant or deny conditional uses.

Conditional uses are those which may be appropriate, desirable, convenient, or necessary in the zoning district in which they are allowed, but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort, and convenience unless appropriate conditions are imposed. Applications for uses designated in this title as conditional uses may be granted, granted with modifications, or denied by the planning commission in accordance with the standards and procedures set forth in this chapter.)

#### 16.12.020 Authorization to impose conditions.

- A. In approving an application for a conditional use or the modification an existing and functioning conditional use, the city may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which the city considers necessary to assure that the use is compatible with other uses in the vicinity and to protect the city as a whole. These conditions may include but are not limited to:
- B. Changing the required lot size or yard dimensions;
- C. Limiting the height of the building(s);
- D. Controlling the location and number of vehicle access points;
- E. Requiring additional right-of -way areas or changing the street width;
- F. Requiring public improvements, including, but not limited to streets, sidewalks, sewer and water line extensions, and bike paths;
- G. Changing the number of off-street parking and loading spaces required;
- H. Limiting the number, size and location of signs;
- I. Requiring diking, fencing, screening or landscaping to protect adjacent or nearby property;

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J. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;

K. Limiting the hours, days, place and manner of operations;

L. Limiting or setting standards for the location and intensity of outdoor lighting;

M. Setting requirements on the number, size, location, height and lighting of signs;

N. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

**16.12.030 Existing uses.**

In the case of a use existing prior to the effective date of the ordinance codified in this title and which is classified in this title as a conditional use, any alteration of the structure shall conform with the requirements dealing with conditional uses.

**16.12.040 Approval standards for conditional uses.**

The approval of all conditional uses shall be consistent with:

A. The comprehensive plan;

B. The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit;

C. That the site size and dimensions provide adequate area for the needs of the proposed use;

D. That the site size and dimensions provide adequate area for aesthetic design treatment to mitigate possible adverse effect from the use of surrounding properties and uses;

E. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;

F. All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant;

G. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the permitted uses listed in the underlying zoning district;

H. All other requirements of this title that apply.

**16.12.050 Conditional use cannot grant variances.**

A conditional use permit shall not grant variances to the regulations otherwise prescribed by this title. A variance application may be filed in conjunction with the conditional use permit by filing an application with the city using forms prescribed for that purpose.

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16.12.060 Application for a conditional use.

The applicant for a conditional use proposal shall be the recorded owner of the property or an agent authorized in writing by the owner. They may initiate a request for a conditional use permit or the modification of an existing, functioning conditional use permit by filing an application with the city using forms prescribed for that purpose.

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In addition, the following shall be supplied by the applicant:

A. Twelve (12) copies of the site development plan(s) drawn to scale and necessary data or narrative which explains how the development conforms to the standards;

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B. The required fee;

C. The conditional use plan, data and narrative shall include the following:

1. Existing site conditions,

2. A site plan for all proposed improvements,

3. A grading plan,

4. A landscape plan,

5. Architectural elevations of all structures,

6. A sign plan,

7. A copy of all existing and proposed restrictions or covenants;

D. In the case where any or all of the above are unnecessary, as in the case of a change of use in an existing structure, the planning director shall determine which items in subsection (C)(1) through (7) of this section will not be required for application. The planning commission may request additional items if they determine that these additional items are necessary to understand and make a decision on the application.

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16.12.070 Major modifications to approved plans.

A. An applicant may request approval of a modification to an approved plan by:

1. Providing the planning director (director) with five copies of the proposed modified conditional use plan;

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2. For all exhibits larger than eleven (11) inches by seventeen (17) inches, twelve (12) copies are required;

3. Providing a narrative addressing the proposed changes as listed in subsection B of this section;

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B. The director shall determine that a major modification has resulted if one or more of the changes listed below have been proposed:

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1. A change in land use;
  2. An increase in dwelling unit density;
  3. A ten (10) percent change in the ratio of the different types of dwelling units to the number of units;
  4. A change in the type of commercial or industrial structures;
  5. A change in the type and location of access ways and parking areas where off- site traffic would be affected;
  6. An increase in the floor area proposed for nonresidential use by more than ten (10) percent where previously specified;
  7. A reduction of more than ten (10) percent of the area reserved for common space and/or usable open space;
  8. A reduction of specified setback requirements by more than twenty (20) percent;
  9. An elimination of project amenities by more than ten (10) percent where the plan specified they were to be provided, such as:
    - a. Recreational facilities,
    - b. Screening, or
    - c. Landscaping provisions;
  10. A ten (10) percent increase in the approved density; or
  11. Any modification to conditions imposed at the time of the approval of the conditional use permit.
- C. Upon the director's determination that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application for a conditional use permit.
- D. The director's decision may be appealed as per Section 17.124.010.
- 16.12.080 Minor modification(s) of a conditional use permit.
- A. Any modification that is not within the description of a major modification as provided in Section 17.92.070(B) shall be considered a minor modification.
- B. A minor modification shall be approved, approved with conditions or denied following the director's review based on the findings that:
1. No provisions of this title will be violated; and
  2. The modification is not a major modification.
- C. Procedures for the notice of the director's decision and the appeal process are contained in the zoning ordinance. The decision may be appealed as per Section 17.124.010. (Amended during 2000 codification.)

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16.12.090 Standards governing conditional uses.

A conditional use shall comply with the standards and purpose of the zone in which it is located except as these standards may have been modified in authorizing the conditional use or as otherwise provided as follows:

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A. Yards. In any zone, additional yard requirements may be imposed.

B. Height Exception for Churches and Governmental Buildings. In any zone where offered as a conditional use, a church or governmental building may be built to exceed the height limitation of the zone in which it is located to a maximum height of fifty (50) feet if the total floor area of the building does not exceed one-and-a-half times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

C. Limitation on Access to Property. The planning commission may limit vehicle access from a conditional use to a street.

D. Signs. See Chapter 17.90 Signs

E. Church. A church may be authorized as a conditional use after consideration of the following factors:

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1. Sufficient area provided for the building;

2. Required yards and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses with additional lot area required);

3. Location of the site relative to the service area of the church;

4. Probable growth and growth needs;

5. Site location relative to land uses in the vicinity and adequacy of access from principal streets, together with the probable effect on traffic volumes of abutting and nearby streets.

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F. Public Utility or Communication Facility. A public utility or communication facility such as a substation, pumping station, radio or television studio or transmitter, or a utility transmission line shall require an easement or right-of-way twenty (20) feet or more wide. In considering an application for a public utility facility, the planning commission 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 uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping station and similar gear shall be so located, designed and installed as to minimize their effect on scenic values.

G. Trailer, Recreational Vehicle, Mobile home or Manufactured Home Park (herein referred to as "park"). A park may be permitted as a conditional use provided it meets the

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requirements of the State of Oregon. In addition, the following minimum standards shall apply:

1. Parking Space Requirement. A parking space shall be provided for each site in the park. In addition, guest parking spaces shall also be provided in every park within two hundred (200) feet of the sites served and at a ratio of one parking space for each two sites. Parking spaces shall have durable and dustless surfaces adequately maintained for all weather use and properly drained.
2. Fencing and Landscaping. A sight-obscuring fence or hedge not less than six feet high shall enclose the park except at points of ingress and egress and at vision clearance areas. A build-up fence, as distinguished from an evergreen hedge, shall be so located as to conform to front and side yard requirements of the zone and suitable landscaping shall be provided in the required yards.
3. Area. The minimum area for a park shall be forty thousand (40,000) square feet. The average area of sites within a park shall be not less than two thousand (2,000) square feet, exclusive of washrooms, recreation areas, roadways and other accessory facilities. No site shall be less than one thousand six hundred (1,600) feet in area.

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H. Multifamily Housing. When considering a conditional use for multifamily housing, conditions shall not be placed which would exclude needed housing, unnecessarily decrease density, or allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delays.

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I. Drive-Up Uses. Drive-up uses are a conditional use in the general commercial zone. All drive-up uses shall comply with the following provisions:

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1. All drive-up uses shall provide at least two designated parking spaces immediately beyond the service window to allow customers requiring excessive waiting time to receive service while parked.
2. All drive-up uses shall provide a means of egress for vehicular customers who wish to leave the waiting line.
3. The grade of the stacking area shall be flat or downhill to eliminate excessive fuel consumption.
4. The drive-up shall be designed to provide natural ventilation for dispersal of exhaust fumes.

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J. Bed and Breakfasts and Bed and Breakfast Inns. Bed and breakfasts and bed and breakfast inns are conditional uses in the CD-1 and CD-2 zones and they shall comply with all of the provisions pertaining to vacation rentals as listed in subsection K of this section.

K. Vacation Rental Dwellings. Vacation rental dwellings (VRDs) are a conditional use in the CD-1 and CD-2 and CD-3 zones, and are subject to the requirements of this chapter. Conditional use permits are a discretionary decision by the City subject to review by the

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Planning Commission. VRD's are not an outright permitted use in the CD-zones.

All vacation rental dwelling shall comply with the following provisions.

1. The single-family detached dwelling proposed for the VRD shall be at least three years old, calculated from the date of issuance of a certificate of occupancy;
2. Less than 30% of the single-family detached dwellings within 250 feet of the subject property, and located in a zone where VRD's are allowed, are VRD's;
3. In the CD-1 zone, single-family detached dwellings proposed for VRD status may be located only in the VRD-overlay zone as indicated on the attached map. VRD's are allowed as a conditional use in all areas of the CD-2 and CD-3 zones;
4. The VRD Conditional Use Permit is valid for the named applicant of record and is not transferable to a new applicant. Upon change in named applicant due to sale, transfer, or other reason, the CUP shall become null and void. A new applicant shall apply for a new conditional use permit;
5. Tsunami Preparedness – all VRD's shall post the Bandon Tsunami Evacuation Route map in a conspicuous location within the dwelling;
6. No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor is emitted from the VRD than a normal neighborhood dwelling;
7. VRD's without private beach access shall provide written permission from all persons with an interest in a private beach access to be used by the VRD or positive action to notify renters of the location and required use of public beach access points shall be taken;
8. VRD's using a joint access driveway shall provide evidence that all other owners of property utilizing the private access agree to the proposed vacation rental dwelling using the private access;
9. VRD's will be maintained at or above the level of surrounding dwellings in the neighborhood, including landscaping, signage and exterior maintenance;
10. VRD's shall have one off-street parking space for each bedroom in the VRD, but in no case have less than two off-street parking spaces. A bedroom is defined as an enclosed sleeping area with a built-in closet. Approved off-street parking areas shall be available to accommodate full occupancy of the VRD without the use of on-street parking;
11. Evidence shall be provided ensuring that there is regular garbage removal from the premises;
12. There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. The name and contact information of the designated local management person shall be kept on file in the Police Department and Planning Department. The owner or management person shall be available by phone and physically able to respond

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to the VRD within a reasonable time period;

13. Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;

14. If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and rental documentation, the VRD permit becomes null and void with no further proceedings;

15. Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people. The Planning Commission shall determine the maximum occupancy of the VRD based upon bedrooms, parking, overall home floor plan and site plan, and other factors determined by the Commission based upon neighborhood characteristics outlined in item 6 above and others deemed significant. The occupancy determined by the Planning Commission may be less than the maximum allowed

16. VRD's require a conditional use permit (CUP). All criteria for a CUP must be addressed and included as part of the application materials. The applicant shall also address the surrounding neighborhood and provide information how the proposed VRD is appropriate given the specific characteristics of the neighborhood.

17. The applicant shall provide an annual report to the Bandon Planning Department showing compliance with all conditions and ordinance requirements. Failure to provide such report shall result in revocation of the Conditional Use Permit.

18. Smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.

#### 16.12.100 Time limitation

A. A conditional use permit shall become void one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permit activity is being regularly conducted on the premises.

B. The Planning Commission may extend a use permit for an additional period of one (1) year, subject to the requirements of this title.

C. A conditional use permit shall become void if the use is discontinued for a period of one year.

#### 16.12.110 Violation of conditions

The Planning Commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Sections 17.120.080 through 17.120.160. The foregoing shall not be the exclusive remedy, and it shall be

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unlawful and punishable hereunder for any person to violate any condition imposed by a conditional use permit.

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## Chapter 16.32

### ZONE CHANGES AND AMENDMENTS

#### Sections:

16.32.010 Authorization to initiate amendments.

16.32.020 Application and fee.

16.32.030 Conditional zone amendment.

16.32.040 Records of amendments.

#### 16.32.010 Authorization to initiate amendments.

An amendment to the text or the zoning map of this title or the comprehensive plan may be initiated by the city council, by the planning commission, or by a property owner or their authorized agent. The planning commission shall hold a hearing and recommend to the city council to approve, approve with conditions, or deny the proposed amendment. The city council may hold a public hearing (public hearings shall occur in accordance with Section 17.120.080). Amendments shall be adopted by ordinance.

#### 16.32.020 Application and fee.

An application for zoning ordinance or comprehensive plan amendment by a property owner or their authorized agent shall be filed with the city. A fee shall accompany the application. If a form is not provided, such as in the case of a plan amendment, the application shall be reviewed by the planning director, who shall respond in writing within ten (10) days on whether the application is complete or, if it is not, what additional information will be necessary to be supplied by the applicant to render the application complete. The planning director shall review proposed zone changes or amendments to the text of the zoning ordinance to determine consistency with the comprehensive plan and that the amendment will not adversely affect the city's or the developer's ability to satisfy land use, transportation and utility, service needs or capacities. The proposed amendment shall also be reviewed to determine the suitability of the uses proposed in terms of slope, geologic stability, flood hazard, wetlands and other relevant hazard or resource considerations.

#### 16.32.030 Conditional zone amendment.

The purpose of the conditional zone amendment provision is to enable the city council to attach specific conditions to a request for a zone boundary change where it finds that such conditions are necessary to achieve a stated public purpose.

A. The city council shall have the authority to attach conditions to the granting of amendments to a zone boundary. These conditions may relate to any of the following matters:

1. The uses permitted;
2. Public facility improvements such as street improvements, dedication of street right-of-way, sewer, storm drainage, and water;
3. That all or part of the development or use be deferred until certain events, such as the provision of certain public facilities to the property, occur;

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4. The time frame in which the proposed use associated with the zone boundary change is to be initiated.

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B. Conditions attached to a zone boundary change shall be completed within the time limitations set forth. If no time limitations are set forth, the conditions shall be completed within two years from the effective date of the ordinance enacting the one boundary change.

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C. The city council may require a bond from the property owner or contract purchasers in a form acceptable to the city in such amount as to assure compliance with the conditions imposed on the zone boundary change. Such a bond shall be posted prior to the issuance of the appropriate development permit.

D. Conditions shall not be imposed which would have the effect of limiting use of the property to one particular owner, tenant or business. Conditions may limit the subject property as to use, but shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.

E. Conditions that are imposed under the provisions of this section shall be construed and enforced as provisions of this zoning code relating to the use and development of the subject property. The conditions shall be enforceable against the applicant as well as their successors and assigns.

F. Requests for modification of conditions shall be considered by the zone amendment application and review procedure of this chapter.

G. Failure to fulfill any condition attached to a zone boundary change within the specified time limitations shall constitute a violation of this section and may be grounds for the city to initiate a change in the zone boundary pursuant to the procedures of this chapter.

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#### 16.32.040 Records of amendments.

The city recorder shall maintain records of amendments to the text and map of the plan and this title in a form convenient for use of the public.

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## Chapter 16.36

### ADJUSTMENTS & VARIANCES

#### Sections:

- 16.36.010 Purpose
- 16.36.020 General Provisions
- 16.36.030 Adjustments
- 16.36.040 Variances
- 16.36.050 Expiration

#### 16.36.010 Purpose

Chapter 16.36 provides standards and procedures for adjustments and variances, which are modifications to development standards that are not otherwise permitted elsewhere in this Code.

#### 16.36.020 Intent

Adjustments are variances that are intended to provide relief from code standards in specific situations. Both procedures are intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

- A. Adjustments. Adjustments provide relief from specific code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements. Adjustments are allowed in limited situations pursuant to Section 16.36.030.
- B. Variances. Variances provide greater flexibility to code standards than adjustments, where the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a code standard.

#### 16.36.030 Adjustments

Adjustments are minor modifications to Code standards that are intended to provide reasonable flexibility for planned land uses and development. Adjustments are subject to the following standards and procedures. Permitted uses shall not be adjusted.

- A. Applicability. The City Planning Official or Planning Commission, through a Type II procedure, may adjust the following standards:

- 1. Setbacks: Up to a 10 percent reduction to a minimum setback.

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2. Lot Coverage: Up to a 10 percent increase to the maximum lot coverage.

3. Lot Dimensions: Up to a 10 percent decrease to a minimum lot dimension.

4. Lot Area: Up to a 10 percent decrease in minimum lot area.

5. Other Dimensional Standards: Up to a 10 percent increase or decrease in a quantitative (numerical) standard not listed above. This option does not include building code requirements, engineering design standards, public safety standards, or standards implementing state or federal requirements, as determined by the City Planning Department.

B. Approval criteria. The City may grant an Adjustment only upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The Adjustment allows for a building plan that is more compatible with adjacent land uses, or it does not create a conflict with adjacent uses;

2. The Adjustment is necessary to allow for normal interior building functions, such as mechanical equipment/utility closets, heating and ventilation systems, restrooms, stockrooms, shelving, and similar interior building functions;

3. Approval of the Adjustment does not create (a) violation(s) of any other adopted ordinance or code standard, and does not create the need for a Variance;

4. An application for an Adjustment is limited to one lot per application;

5. Requests for more than one Adjustment on the same lot shall be consolidated on one application and reviewed concurrently by the City;

6. Not more than three Adjustments may be approved for one lot or parcel in a continuous 12-month period; and

7. All applicable building code requirements and engineering design standards shall be met.

#### 16.36.040 Variances

A. Applicability. A Variance is a variance that does not otherwise meet the criteria under Section 16.36.030.

B. Approval Criteria. The Planning Commission through a Type III procedure may approve a Variance upon finding that it meets all of the following criteria:

1. The Variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;

2. The Variance is the minimum necessary to address the special or unique physical

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circumstances related to the subject site:

3. The need for the Variance is not self-imposed by the applicant or property owner. (For example, the Variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant);
4. The Variance does not conflict with other applicable City policies or other applicable regulations;
5. The Variance will result in no foreseeable harm to adjacent property owners or the public; and
6. All applicable building code requirements and engineering design standards shall be met.

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Approvals granted under Chapter 16.36 shall expire if not acted upon by the property owner within one year of the City approving the variance. Where the owner has applied for a building permit or final plat, has made site improvements consistent with an approved development plan (e.g., Plan Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the City Planning Department may extend an approval accordingly.

## Chapter 16.40

### IMPROVEMENTS

#### Sections:

- 16.40.010 Agreement for improvements.
- 16.40.020 Bond.
- 16.40.025 Guarantee.
- 16.40.030 Fees.
- 16.40.040 Principles of acceptability.
- 16.40.050 Streets.
- 16.40.060 Blocks.
- 16.40.070 Building sites.
- 16.40.080 Grading of building sites.
- 16.40.110 Land for public purposes.
- 16.40.120 Improvement procedures.
- 16.40.130 Specifications for improvement.
- 16.40.140 Improvements in developments.
- 16.40.160 Improvements on substantial developments.

#### 16.40.010 Agreement for improvements.

Before approval of a subdivision final plat or partition map, the developer shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the city manager an agreement between himself or herself and the city, specifying the period within which required improvements and repairs shall be completed; and providing that, if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer. The agreement shall also provide for reimbursement of the city for the cost of inspection by the city. In addition, no agreement for improvements shall be accepted until such time as seventy-five (75) percent of the required improvements are complete, as determined by the city. (

#### 16.40.020 Bond.

A. ~~A.~~ To assure his or her full and faithful performance of the agreement for improvements, the developer shall file one of the following:

~~1.~~ 1. A surety bond executed by a surety company authorized to transact business in the state of Oregon in a form approved by the city attorney;

~~2.~~ 2. Cash;

~~3.~~ 3. Other financial security acceptable to the city.

B. ~~B.~~ Such assurance of full and faithful performance shall be for a sum approved by the

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city manager as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of city inspection.

- C. If the developer fails to carry out provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds cost and expense incurred by the city, it shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the developer shall be liable to the city for the difference.

16.40.025 Guarantee.

The developer shall guarantee all materials and equipment furnished and work performed against any defect in materials or workmanship which become evident within two years after the acceptance of the work by the city. A warranty bond or cash deposit shall be submitted to the city upon acceptance of the project and shall be in the amount equaling fifteen (15) percent of the value of the improvements. Said surety shall remain in full force and effect during the guaranty period and correction of any faulty work or materials shall be promptly executed by the developer, or, if corrected by the city, shall be the responsibility of the surety.

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16.40.030 Fees.

All fees and costs associated with the design, installation, and inspection of the improvements shall be borne by the developer.

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16.40.040 Principles of acceptability.

A development shall conform to all approved development plans, shall take into consideration all preliminary plans made in anticipation thereof and shall conform to the design standards established by this title as determined by the city.

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16.40.050 Streets.

- A. A. General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets.

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The street system shall assure an adequate traffic circulation with intersection angles, grades, tangents and curves appropriate for the traffic to be carried, considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:

1. 4. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
2. 2. Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

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- B. B. Minimum Right-of-Way and Roadway Width. Unless otherwise indicated on the

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development plan, the street right-of-way and roadway widths shall not be less than the minimum width adopted by council resolution.

Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-way may be accepted, ordinarily not less than fifty (50) feet. If necessary, slope easements may be required.

**C. C.**—Reserve Strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the city under conditions approved by the planning commission.

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**D. D.**—Alignment. As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of two hundred (200) feet between the center lines of streets having approximately the same direction, and in no case shall be less than one hundred twenty-five (125) feet.

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**E. E.**—Future Extensions of Streets. Where necessary to give access to or permit a satisfactory future division of adjoining land, or as identified in the Transportation System Plan, streets shall be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved without a turnaround. Reserve strips and street plugs may be required to preserve the objectives of street extension.

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**F. F.**—Intersection Angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than eighty (80) degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred (100) feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty (50) feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of twenty-five (25) feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two streets at any one point will not be approved.

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**G. G.**—Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and improvements shall be provided at the time of the land division.

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**H. H.**—Half Street. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity

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with the other requirements of these regulations and when the planning commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

**I. I.** Cul-de-sac. A cul-de-sac shall be as short as possible and should have a maximum length of four hundred (400) feet and serve building sites for not more than eighteen (18) dwelling units. A cul-de-sac shall terminate with a circular or modified circular turnaround.

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**J. J.** Street Names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city and shall be subject to the approval of the planning commission.

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**K. K.** Grades and Curves. Grades shall not exceed six percent on arterials, ten (10) percent on collector streets or twelve (12) percent on other streets. Center line radii or curves shall not be less than three hundred (300) feet on major arterials, two hundred (200) feet on secondary arterials or one hundred (100) feet on other streets, and shall be to an even ten (10) feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the planning commission may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 percent.

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**L. L.** Marginal Access Streets. Where a land division abuts or contains an existing or proposed arterial street, the planning commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property line or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

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**M. M.** Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the planning commission. The corners of alley intersections shall have a radius of not less than twelve (12) feet.

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#### 16.40.060 Blocks.

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**A. A.** General. The length, width and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.

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**B. B.** Size. No block shall be more than one thousand (1,000) feet in length between street corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is one thousand eight hundred (1,800) feet. A block shall have sufficient width to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception.

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**C. C.** Easements.

**1. 1.** Utility Lines. Easements for sewers, water mains, electric lines or other public utilities shall be dedicated whenever necessary. The easements shall be at least twelve (12) feet wide and centered on lot or parcel lines, except for utility pole tieback easements which may be reduced to six feet in width.

**2. 2.** Watercourses. If tract is traversed by a watercourse, such as a drainage way, channel or stream, a storm water easement or drainage right-of-way conforming substantially with the line of the watercourse shall be provided. Additional width, and streets or parkways parallel to the major watercourses may also be required.

**3. 3.** Pedestrian and Bicycle Ways. For public convenience, a pedestrian or bicycle way may be required to serve a cul-de-sac, to pass through an unusually long or oddly shaped block, or to facilitate public circulation. Planned pedestrian or bicycle ways as identified in the transportation system plan shall be required to be constructed as part of the subdivision or partition. (Ord. 1471 (part), 2001)

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**16.40.070** Building sites.

**A. A.** Size and Shape. The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated and shall be consistent with the residential lot size provisions of the zoning ordinance, with the following exceptions:

**1. 1.** In areas that will not be served by a public sewer, minimum lot and parcel sized shall permit compliance with the requirements of the Department of Environmental Quality and shall take into consideration problems of sewage disposal, particularly problems of soil structure and water table as related to sewage disposal by septic tank.

**2. 2.** Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the planning commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

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**B. B.** Access. Except as set forth in Section 16.16.020, each lot and parcel shall abut a street other than an alley for a width of at least forty (40) feet.

**C. C.** Through Lots and Parcels. Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten (10) feet wide and across which there shall be no right of access may be required along the line of building sites abutting such a traffic artery or other incompatible use.

**D. D.** Lot and Parcel Side Lines. The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets

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they shall be radial to the curve.

16.40.080 Grading of building sites.

Grading of building sites shall be minimized and shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

A. A.—Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.

B. B.—Fill slopes shall not be steeper than two feet horizontally to one foot vertically.

C. C.—The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended and shall be determined by the city engineer.

D. D.—The developer shall obtain any permits required from the Department of Environmental Quality as relates to on-site erosion.

16.40.110 Land for public purposes.

A. A.—When the city has an interest in acquiring a portion of a proposed subdivision for a public purpose, or when the city has been advised of such interest by a school district or other public agency and there is reasonable assurance that steps will be taken to acquire the land, then the planning commission may require that those portions of the subdivision be reserved for public acquisition for a period not to exceed one year. The developer shall be required to grant a recordable option to the public agency involved providing for purchase within one year of the recording of the plat at a stated price not to exceed the value of the land prior to development.

B. B.—Within or adjacent to a development, a parcel of land of not less than six percent of the gross area of the development shall be set aside and dedicated to the public by the developer. The parcel shall be approved by the planning commission as being suitable and adaptable for park and recreation uses. In the event no such area is suitable for park and recreation purposes, the developer shall, in lieu of setting aside land, pay into a public land fund a sum of money equal to the current real market value of the property x .06. The sums so contributed shall be used to aid in securing land or providing facilities for park and recreation purposes within the city. If the nature of the subdivision is such that over thirty-four (34) percent of the tract to be subdivided is being dedicated to the public for streets, the requirements of this section shall be reduced so that the total obligation of the subdivider does not exceed over forty (40) percent.

16.40.120 Improvement procedures.

In addition to other requirements, improvements installed by a land divider, either as a requirement of these regulations or at his or her own option, shall conform to the requirements of this title and improvements standards and specifications followed by the city, and shall be installed in accordance with the following procedure:

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~~a. A.~~ Improvement work shall not commence until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plan of a subdivision or partition.

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~~b. B.~~ Improvement work shall not commence until after the city is notified, and if work is discontinued for any reason, it shall not be resumed until after the city is notified.

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~~B. C.~~ Improvements shall be constructed under the supervision of the developer's licensed engineer. The developer's engineer shall certify, in writing, all improvements upon completion. The city engineer shall conduct inspections of improvements as required during the final stages of construction. The city may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change. Such changes shall be reviewed and approved by the city engineer prior to construction.

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~~C. D.~~ Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed on each parcel, obviating the necessity for disturbing the street improvements when service connections are made.

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~~D. E.~~ A map showing public improvements as build shall be filed with the city upon completion of the improvements.

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16.40.130 Specifications for improvements.

The city engineer shall prepare and submit to the city council specifications to supplement the standards of the title based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets.

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16.40.140 Improvements in developments.

The following improvements shall be installed at the expense of the developer and at the time of development.

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~~a. A.~~ Streets. Public streets, including alleys within the development and public streets adjacent but only partially within the sub-division, shall be improved. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be reestablished and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines.

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~~b. B.~~ Surface Drainage and Storm Sewer Systems. Drainage facilities shall be provided within the development to connect development drainage to drainage ways or storm sewers outside the development. Design of drainage within the

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development shall comply with the adopted storm water drainage plan and shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the development and to allow extension of the system to serve such areas.

~~B. C.~~ Sanitary Sewers. Sanitary sewers shall be installed to serve the development and to connect the development to existing mains in accordance with the city's sanitary sewer master plan. In the event it is impractical to connect the development to the city trunk system, the planning commission may authorize the use of septic tanks if lot areas are adequate considering connection to a sewage disposal system are installed and sealed. Design by the developer's engineer shall take into account the capacity and grade to allow for desirable extension beyond the development.

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~~C. D.~~ Water System. Water lines and fire hydrants serving each building site in the development and connecting the development to city mains shall be installed in accordance with the approved engineering design. The developer's engineered design shall take into account provisions for extension beyond the development and, if possible, to adequately grid or loop the city system.

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~~D. E.~~ Sidewalks. Sidewalks shall be installed in accordance with the transportation system plan and the construction typicals adopted by council resolution.

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~~E. F.~~ Bicycle Routes. The planning commission may require the installation of bicycle lanes within streets or separate bike paths if the development would be an extension of existing or planned bike routes.

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~~F. G.~~ Street Name Signs. Street name signs shall be installed at all street intersections.

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~~G. H.~~ Street Lights. Street lights shall be installed as required and served from an underground electric source.

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~~H. I.~~ Other. The developer shall make necessary arrangements with utility companies or other persons or corporations for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.

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#### 16.40.160 Improvements on substantial developments.

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~~A.~~ Purpose. This section established and confirms standards for the development of commercial developments which substantially impact city services. These regulations are needed to assure consistent and equal treatment of developers of certain commercial developments and

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A. to provide for coordination of proposed developments with city comprehensive plans, implementing ordinances and city standards, criteria and guidelines. The overall purpose

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is to require that those developments which substantially impact the services shall pay their fair share.

**B. ~~B.~~ Street Standards.** Any development which contains buildings or structures or a combination of both which totals more than ten thousand (10,000) square feet on one or more contiguous parcels of land shall be required to improve or construct the abutting streets to city standards.

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**C. ~~C.~~ Water System Standards.** Any buildings or structures in a commercial development which require a fire sprinkler system shall be required to construct or reconstruct the development's water system to assure adequate water flow as determined by the fire chief.

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**D. ~~D.~~ Extensions.** Any commercial develop-ment which requires the extension of water, street, sewer or storm drain facilities shall pay the cost of construction for the facilities required to service the development.

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**E. ~~E.~~ Variances.** Variance procedures and standards for this section shall be those as set out in ~~Title 17~~Chapter 16.36, now and as amended.

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## Chapter 16.42

### DEFINITIONS

#### Sections:

~~16.42.010 Definitions.~~

~~16.42.010 Definitions.~~

~~As used in Title 16 and Title 17, the masculine includes the feminine and neuter and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:~~

~~"A Frame or Sandwich": an advertising device which is ordinarily in the shape of an A or some variation thereof, located on the ground, easily movable, not permanently attached thereto and which is usually two-sided.~~

~~"Abandonment" Wireless telecommunications facilities will be considered abandoned when there has not been a carrier licensed or recognized by the Federal Communications Commission operating on the facility for a period of one year (365 consecutive days).~~

~~"Abutting" means sharing a common property line. It shall include the term adjoining.~~

~~"Access" means a legally and physically defined area available and practical for motor vehicle ingress and egress to a parcel or lot. In determining practicality, the topography, drainage, potential for erosion and other factors may be considered.~~

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

~~"Access management" means the control of street (or highway) access for the purpose of improving and/or maintaining the efficiency, safety and/or operation of the roadway for vehicles; may include prohibiting, closing or limiting direct vehicle access to a roadway from abutting properties, either with physical barriers (curbs, medians, etc.) or by land dedication or easement.~~

~~"Accessible" means approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.~~

~~"Accessory dwelling" an interior attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. A maximum of one Accessory Dwelling Unit is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of the detached accessory building (e.g. above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g. an addition or the conversion of an existing floor).~~

~~"Accessory structure or use" means a structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use.~~

~~"Adjacent" means parcels or lots located directly across a street right-of-way.~~

~~"Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage which must be inspected and licensed by the state of Oregon.~~

~~"Adverse impact" means negative affect of development that can be measured (e.g., noise, air pollution, vibration, dust, etc.).~~

~~"Affordable" means housing affordable to a certain percentage of the population earning a specified level of income and spending no more than the U. S. Department of Housing and Urban Development percentage of their income on housing expenses. For more information, refer to the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.~~

~~"Alley" means a narrow street through a block primarily for vehicular service access or utilities to the back or side of properties otherwise abutting on another street.~~

~~"Ambient" means something that surrounds, or is in the background, such as the level of light, dust or noise.~~

~~"Antenna" A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips.~~

~~"Antenna, Whip" An antenna that transmits or receives 360-degree signals. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting assembly.~~

~~"Arcade" an arched or covered passageway; often along building fronts or between streets.~~

~~"Application" means an application for a Development Permit.~~

~~"Approving Authority" means the Planning Commission, City Manager, or designate.~~

~~"Appurtenant" means auxiliary or accessory to the main use.~~

~~"Architectural projections" means protrusions of a building wall that are extended so as to create articulation of the exterior building wall.~~

~~"Architectural recesses means portions of a building wall that are set back so as to create articulation of the exterior building wall.~~

~~"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.~~

~~"Arterial" means a vehicular right-of-way whose primary function is to carry through traffic in a continuous route across an urban area while also providing some access to abutting land.~~

~~"Articulate/articulation" means the jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.~~

~~"Attached": be attached; affixed; be in contact with; become attached by construction, adhesive, tying, or any other means.~~

~~"Auto gas/service Station" means a commercial entity whose primary purpose is the dispensing of gasoline or other fuel for use by automobiles, trucks, or other vehicles.~~

~~"Banner": a sign made of any lightweight, non-rigid material such as plastic, fabric, or other flexible material with no enclosing framework.~~

~~"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, i.e., the one hundred (100) year flood.~~

~~"Base flood elevation" means the crest elevation, in relation to mean sea level, expected to be reached by the base flood, also known as the regulatory flood elevation.~~

~~"Bed and breakfast (B&B)" means an accessory use of a single-family dwelling for the lodging of guests for compensation. B&B's shall contain no more than two bedrooms for sleeping quarters for the guests, and the breakfast shall be included in the fee and available to the guests in a common area. This use shall be operated primarily by members of the resident family. There may be no other conditional uses or home occupations conducted at the same time at a site designated as a B&B. Two parking spaces must be provided on the property in addition to the spaces required for the main use. Each unit including the resident family's unit shall require one thousand eight hundred (1,800) square feet of lot area. For the purposes of this definition, the family living quarters shall be considered one unit regardless of the number of bedrooms in the family quarters.~~

~~"Bed and breakfast inn (B&B inn)" means a structure that retains the characteristics of a single-family residence and is compatible with the surrounding structures, which offers for compensation more than two but not more than eight bedroom units for sleeping quarters to guests and is licensed by the state of Oregon under OAR Sections 333-170-0000 through 333-170-0130, and where breakfast is included in the fee and available to the guests in a common area. This use shall be operated primarily by the resident family. In addition to the two parking spaces required for the resident use of the facility, one space shall be required for each B&B unit plus one space for each outside employee. Each unit including the resident family's unit shall require one thousand eight hundred (1,800) square feet of lot area. For the purposes of this definition, the family living quarters shall be considered one unit regardless of the number of bedrooms in the family quarters. B&B inn sites shall be considered residential sites subject to provisions of this title except as specifically modified in this definition.~~

~~"Berm" means a small rise or hill in a landscape which is intended to buffer or visually screen certain developments.~~

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

~~"Bikeway" means any road, path or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.~~

~~"Block" means a parcel of land or group of lots bounded by intersecting streets.~~

~~"Board" means the architectural review board.~~

~~"Bollard" means a post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards are usually decorative, and may~~

~~contain sidewalk or pathway lighting.~~

~~"Boulevard" means a street with broad open space areas; typically with planted medians.~~

~~"Building" means a structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, but not including swimming pools, fences and patios.~~

~~"Building footprint" means the outline of a building, as measured around its foundation.~~

~~"Building mass" means the aggregate size of a building, or the total height, width and depth of all its parts.~~

~~"Building pad" means a vacant building site on a lot with other building sites.~~

~~"Building scale" means the dimensional relationship of a building and its component parts to other buildings.~~

~~"Bulkhead" means the wall below ground floor windows on a building (i.e., may be differentiated from other walls by using different materials or detailing).~~

~~"Business" means a commercial or industrial enterprise.~~

~~"Business office" means the office of an enterprise in providing services for a fee.~~

~~"Capacity" means a maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.~~

~~"Carrier / Provider" A company that provides wireless services.~~

~~"Carrier / Provider, Licensed" A company authorized by the FCC to build and operate a commercial communication services system.~~

~~"Centerline radius" means the radius of a centerline of a street right-of-way.~~

~~"Child care center, family child care" means facilities that provide care and supervision of minor children for periods of less than twenty-four (24) hours. "Family child care providers" provide care for not more than twelve (12) children in a home. See also, ORS 657A for certification requirements.~~

~~"City" means the city of Bandon, Oregon.~~

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

~~"COA" means certificate of appropriateness.~~

~~"Collector" means a street that carries traffic between urban arterials and local streets and provides access to abutting properties.~~

~~"Collocation" The use of a single support structure by more than one wireless telecommunications carrier/provider; including the use of an existing structure as a telecommunications antenna mount, such as a water tank, fire station, utility poles, towers, etc., by one or more carriers.~~

~~"Commercial" means land use involving buying/selling of goods or services as the primary activity.~~

~~"Commission" means the planning commission of the city.~~

~~"Common area" means land commonly owned to include open space, landscaping or recreation facilities (e.g., typically owned by homeowners associations).~~

~~"Communication Tower" A tower, pole, or similar structure of any size which~~



~~supports wireless telecommunication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users, above ground in a fixed location, free-standing, guyed, or on a structure. This definition does not include communication towers for amateur radio operators licensed by the Federal Communications Commission (FCC), which are exempt from local zoning restrictions. A Communication Tower may also be utilized as part of a mobile system for purposes of providing short-term emergency, supplemental or specialized wireless telecommunications services.~~

~~"Conditional use" means a use which requires a conditional use permit.~~

~~"Condominium" means a building, or group of buildings, in which dwelling units, offices or floor area are owned individually, and the structures, common areas and facilities are owned by all the owners of a proportional, undivided basis.~~

~~"Condominium association" means the community association that administers and maintains the common property and common elements of a condominium.~~

~~"Condominium hotel" means a building constructed, maintained, operated and managed as a hotel in which each room is individually owned and in which some or all of the rooms are available for rent, sublet or lease and where the structure, common areas and facilities are owned by all the owners on a proportional, individual basis.~~

~~"Consensus" means collective agreement, consent or opinion among participants.~~

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

~~"Contiguous" mean lots, parcels, or lots and parcels that have a common boundary. "Contiguous" includes, but is not limited to, lots, parcels or lots and parcels separated only by an alley, street or other right of way or flagpole. Lots or parcels are not contiguous if their common boundary is an arterial or collector street.~~

~~"Corner radius" means the radius of a street corner, as measured around the curb or edge of pavement.~~

~~"Cornice" means the projecting horizontal element that tops a wall or flat roof.~~

~~"Cottage" means a small house that may be used as an accessory dwelling.~~

~~"Council" means the city council of the city.~~

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

~~"Cul-de-sac" means a local street having only one outlet with a turnaround at the opposite end, and which is not intended to be extended or continued.~~

~~"Curb cut" means a driveway opening where a curb is provided along a street.~~

~~"Day care" means the act of caring for another person's children at a site, usually, but not always, for a fee.~~

~~"Day care (family day care provider)" applies only to any family day care provider who provides care in the home of the provider to fewer than thirteen (13) children, including the children of the provider, regardless of full-time or part-time status. Such use shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for a single-family dwellings in the same zone.~~

~~"Deciduous" means tree or shrub that sheds its leaves seasonally.~~

~~"Deck" means a flat, floored, roofless structure, generally elevated above ground level, connected to or adjoining a building.~~

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

~~"Density" means a measurement of the number of dwelling units in relationship to a specified amount of land. As used in this code, density does not include land devoted to street right-of-way. Density is a measurement used generally for residential uses.~~

~~"Density bonus" means an increase in the number of dwelling units per acre permitted in a planned unit development as an incentive for exceptionally good design or reasons as specified by ordinance.~~

~~"Density transfer" means a measurement of the average density of housing in a parcel. For example, on a four-acre site, if the normal density allowed is eight dwellings per acre, the total allowed would be thirty-two (32) dwellings. A proposed siting might be to erect these dwellings in a cluster or clusters for some justifiable reason, rather than have each dwelling occupy its own five thousand six hundred (5,600) square foot lot.~~

~~"Developable" means a buildable land, as identified in the city's buildable land inventory. Includes both vacant land and land that can be redeveloped.~~

~~"Developer" means a person or other legal entity who subdivides or partitions land, or constructs on more than one parcel of land.~~

~~"Development" means any manmade change to improved or unimproved tracts of land, including, but not limited to, construction of buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations located within the area. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.~~

~~"Development permit" means any permit or authorization issued by the city as a pre-requisite for undertaking any development. It includes permits and authorizations customarily known as certificates of appropriateness, building permits, zoning compliances, variances, conditional use permits, street plans, plat approvals, subdivision or planned unit development permits.~~

~~"Development review board" means a review body comprised of city departments which reviews applications and makes recommendations to the decision-making body.~~

~~"Directional Sign": a sign which directs the reader to a location, event, or activity. Such signs also include signs designed and installed for the purpose of traffic or pedestrian direction to an entrance or exit from premises.~~

~~"Director" means the planning director of the city of Bandon, or a designee.~~

~~"Divide" means to separate land into two or more parcels or lots for the purpose of transferring a substantial interest in land.~~

~~"Division" means the act or process of dividing land or a tract that has been divided.~~

~~"Discretionary" describes a permit action or decision that involves substantial judgment or discretion.~~

~~"Double frontage" means a term used to describe a lot or parcel which has road~~

~~access and frontage at each end. Corner lots are not considered to have double frontage unless they front roads on three sides. Alley access is not considered "frontage" in this definition.~~

~~"Drip-line" means an imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.~~

~~"Drive lane/travel lane" means an improved driving surface for one line of vehicles traveling in the same direction.~~

~~"Drive-up uses" means any establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive or obtain goods while remaining in their motor vehicles. Drive-up uses shall not include service or gas stations.~~

~~"Driveway" means areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the pro-perty line and extends into the site. Driveways do not include parking, maneuvering or circulation areas in parking space areas.~~

~~"Driveway apron/approach" means the edge of a driveway where it abuts a public right-of-way; usually constructed of concrete or asphalt.~~

~~"Duplex" means a building with two attached housing units on one lot or parcel.~~

~~"Dwelling" means a building, or portion thereof, designed or used for human occupancy as a residence for one or more persons, not including vehicles, travel trailers or recreational/camping vehicles.~~

~~"Dwelling, attached" means a one-family dwelling attached to two or more one-family dwellings by common vertical walls.~~

~~"Dwelling, detached" means a dwelling that is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall or floor in common with any other dwelling unit.~~

~~"Dwelling, seasonal" means a dwelling unit not used as a principal residence that may be occupied weekends and for brief periods during the year.~~

~~"Dwelling, single-family detached" means a building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.~~

~~"Dwelling, single-family semidetached" means a one-family dwelling attached to one other one-family dwelling by a common vertical wall, with each dwelling located on a separate lot. The semidetached dwelling is most commonly a two-family structure with the dwelling units side by side as opposed to one on top of the other. A semidetached dwelling also could be the end unit of a townhouse row, a patio house or a variety of zero lot line houses.~~

~~"Dwelling, townhouse" means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.~~

~~"Dwelling, triplex" means a building containing three dwelling units, each of which has direct access to the outside or to a common hall.~~

~~"Dwelling, two-family" means a building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.~~

~~"Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence for ten (10) or fewer persons. (UBC 205)~~

~~"Easement" means a right of usage of real property granted by an owner to the city, the public or to specific persons, firms, and corporations.~~

~~"Electronic Display or Reader board Sign": a computer operated sign with capacity for text and or graphic information.~~

~~"Elevation" refers to a building face, or scaled drawing of the same, from grade to roof ridgeline.~~

~~"Environmentally sensitive areas" see "sensitive lands."~~

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

~~"Face" means the facade of a structure facing a street.~~

~~"Family" means an individual or two or more persons related by blood, marriage, legal adoption or guardianship, living together in a dwelling unit in which board and lodging may also be provided for no more than four additional persons, excluding servants; or a group of not more than five persons who need not be related by blood, marriage, legal adoption or guardianship living together in a dwelling unit.~~

~~"Facade" means any exterior wall of a building.~~

~~"Family day care" see "child care facilities."~~

~~"Farming" or "farm use" means the use of land for raising and harvesting of crops, or for feeding, breeding and management of livestock, dairying or any other agricultural or horticultural use, or any combination thereof, including the preparation of the products raised on the premises for man's use and disposal by marketing or otherwise.~~

~~"Fast Food Restaurant" means a business whose principal purpose is the sale of food or beverage served in paper or plastic or disposable containers for immediate consumption inside, outside, or away from the building and including businesses who provide delivery of food for immediate consumption.~~

~~"Fence" means an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.~~

~~"Finished Grade" means the level of the ground after alteration as approved by the Planning Commission or City Council.~~

~~"Fire apparatus lane" also known as a fire lane, an area which must be preserved for the ingress, egress, and operation of fire apparatus.~~

~~"Flag lot" means a lot that is mostly separated from the street, located behind another lot, and connected to the street by an extension of land that reaches to the street.~~

~~"Flag pole" means the long, narrow portion of a flag lot that connects the back~~

portion of the lot to the street.

"Flood or flooding" means a general temporary condition or partial or complete inundation of normally dry land areas from 1) The overflow of inland waters, and/or 2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood hazard boundary map" means an official map of a community issued by the Federal Emergency Management Agency (FEMA) where the boundaries of the flood, mudslide (i.e. mudflow), and related erosion areas having hazards have been designated.

"Flood insurance" means the insurance coverage provided under the federal flood insurance program.

"Flood insurance rate map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood plain, one hundred (100) year" means the land within the city subject to a one percent chance of flooding in any given year, including the flood way and flood way fringe.

"Flood prone" means areas likely to be flooded by virtue of their location adjoining a river, stream or other water course or water body to the extent where the level of hazard exceeds acceptable designated floodplain, flood way and approximate method floodplain; torrential flood hazard area identified by the Department of Geology and Mineral Industries, and other areas both within or outside of FEMA mapped areas which are either known to be flood prone or where flood hazard conditions may be more extreme than indicated by FEMA and development would jeopardize life or property.

"Flood proofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Flood way" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floor area" means the area included within the surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

"Floor area ratio (FAR)" means the gross floor area of all buildings or structures on a lot divided by the total lot area.

"Foredune" means the dune closest to the high tide line that extends parallel to the beach. The foredune can be divided into three sections: the frontal area (closest to water); the top surface; and the lee or reverse slope (backside).

"Free Standing Sign": a sign which is attached to or a part of a completely self-supporting structure. The supporting structure will be set firmly in or below the ground surface and will not be attached to any building or any other structure whether portable or stationary.

"Frontage" means the dimension of a property line abutting a public or private street.

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

~~"Functional classification" means the classification given to streets in the transportation system plan, includes arterials, collectors, and local streets.~~

~~"Garage, private" means an accessory building or portion of a main building used for noncommercial parking or storage of vehicles.~~

~~"Garage, public" means a building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.~~

~~"Grade" means the elevation of the ground level.~~

~~"Ground cover" means a plant material or non-plant material (e.g., mulch, bark chips/dust) that is used to cover bare ground.~~

~~"Hammerhead turnaround" means a "T" or "V" shaped dead-end street that allows for vehicles to turn around.~~

~~"Handbill" A solicitation printed on loose paper or cardboard designed for advertisement or identification of a sale, business, location, object, person, institution, organization, product, service or event.~~

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

~~"Hearing, legislative" means a hearing concerning the creation of law or policy, as in a hearing on a new or amended ordinance, plan, plan policy or map.~~

~~"Hearing, quasi-judicial" means a hearing concerning the application of law or policy to a specific individual or property, as in a hearing on an application for a conditional use, variance or rezone of a single property.~~

~~"Height of building or structure" means the vertical distance from the native grade to the highest point of the roof. On slopes, the height of the structure shall be determined by taking the height of each side of the building measured from grade at the center of the wall to the highest point of the roof and divided by the number of measured sides.~~

~~"Home occupation" means an occupation commonly carried on within a dwelling by members of the family occupying the dwelling, without outside employees, provided that the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor outwardly manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupation of their homes. A home occupation does not involve the retail sale of a product on the premises, nor the use of any accessory building, nor does it occupy more than thirty (30) percent of the floor area of the dwelling. A home occupation is an accessory use.~~

~~"Hospital" means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.~~

~~"Hotel" means a building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.~~

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

~~"Illumination External": a source of illumination outside of a sign~~

~~"Illumination Internal": a source of illumination from within a sign~~

~~"Impervious surface" means a development which does not allow for water infiltration (e.g., pavement, roofs, etc.).~~

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

~~"Incompatibility of land uses" means an issue arising from the proximity or direct association of contradictory, incongruous or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation and similar environmental conditions.~~

~~"Infill" means the development of land located in an area that is mainly developed.~~

~~"Kennel" means a lot or building in which four or more dogs or cats at least four months of age are kept commercially for board, propagation or sale.~~

~~"Land division" means the process of dividing land to create parcels or lots.~~

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

~~"Land use decision" means a final decision or determination made by a local government that concerns the adoption, amendment or application of the statewide goals, a comprehensive plan provision, a land use regulation or a new land use regulation. Does not include limited land use decisions or expedited partitions. (ORS 197.015)~~

~~"Land use district" means as used in this code, a land use district is the same as a zone district.~~

~~"Landing" means a level part of a staircase, as at the end of a flight of stairs.~~

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

~~"Lane, mid-block lane" means a narrow, limited use roadway facility usually used to access a limited number of dwelling units; similar to an alley in design.~~

~~"Legislative" means a legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation).~~

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

~~"Limited land use decision" a final decision or determination made by a local government pertaining to a site within an urban growth boundary which concerns the approval or denial of a subdivision and the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site reviews, plan reviews and design reviews. (ORS 197.195)~~

~~"Live/Work/Sell/Residential" means a dwelling in or attached to a commercial or industrial use, which is intended to be occupied by the owner or employee(s) who work at or in that commercial or industrial use. Should the dwelling be occupied by person(s) other than the owner or employee(s), the City shall not revoke any permit for the dwelling provided that there has been recorded with the County Clerk an acknowledgment that the owner has or will inform any occupants of the Live/Work/Sell/Residential dwelling, that the residential premises are in or attached to a commercial or industrial use, subjecting occupants to noise and other disturbances and nuisances associated with commercial and industrial uses and activities. Such form of acknowledgment can be a City proscribed form to be acknowledged by the owner upon receiving a permit for a Live/Work/Sell/Residential use.~~

~~"Livestock" means domestic animal types customarily raised or kept on farms.~~

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

~~"Local street" means a street that primarily provides access to abutting property. It typically has low traffic volumes and low speeds.~~

~~"Logo": a recognizable graphic design element, representing an organization or product. A sign, name, or trademark of an institution, firm, or publication, consisting of letter forms borne on one printing plate or piece of type.~~

~~"Lot" means a lot is a unit of land that is created by a subdivision of land (ORS 92.010(3)).~~

~~"Lot area" means the total surface area (measured horizontally) within the lot lines of a lot.~~

~~"Lot corner" means a lot, parcel or portion thereof, situated at the intersection of two or more streets.~~

~~"Lot depth" means the average horizontal distance between the front lot or parcel line and the rear lot or parcel line.~~

~~"Lot, interior" means a lot other than a corner lot.~~



~~"Lot line" means the property line bounding a lot or parcel.~~

~~"Lot line, front" means the property line separating the lot or parcel from the road or street, other than an alley. In the case of a corner lot or parcel or a lot with double frontage, the shortest property line along a street or road which has been improved and for which addresses have already been assigned, other than an alley. In the case of a flag lot or other parcel or lot, where the majority of the lot or parcel does not front on a road, the front lot or parcel line shall be one of the shortest lines, if a rectangular lot or parcel.~~

~~"Lot line, rear" means a property line which is opposite and most distant from the front lot or parcel line. In the case of an irregular, triangular or other shaped lot or parcel, a line ten feet in length within the lot or parcel, parallel to, and at a maximum distance from, the front lot or parcel line.~~

~~"Lot line, side" means any property line, not a front or rear lot or parcel line.~~

~~"Lot width" means the average horizontal distance between the side lot or parcel lines, calculated by dividing the lot area measured in square feet by the length of the lot (e.g., the distance between the front and rear property lines excluding the flag strip) measured in feet.~~

~~"Lot coverage" means the area of a lot covered by a building or buildings expressed as a percentage of the total lot area.~~

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

~~"Main/Primary entry/entrance" means a main entrance is the entrance, or entrances, to a building that most pedestrians are expected to use. Generally, smaller buildings have one main entrance. Main entrances may also be the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales areas, a courtyard, or plaza.~~

~~"Maneuvering area/aisle" refers to the driving area in a parking lot where motor vehicles are able to turn around and access parking spaces.~~

~~"Manufactured dwelling" or "manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standard regulations in effect at the time of construction; and also meets the following standards:~~

~~A manufactured home placed outside of a manufactured home subdivision or a mobile home park shall:~~

- ~~1. Be multi-sectional (double-wide or wider) and enclose a floor area of not less than one thousand (1,000) square feet;~~
- ~~2. Be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than sixteen (16) inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than sixteen (16) inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the sixteen (16) inch limitation will not apply;~~
- ~~3. Have a roof with a nominal pitch of three feet in height for each twelve (12)~~

feet in width;

4. ~~Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010. (Evidence demonstrating that the manufactured home meets "super goods cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer's certification shall not be required). Homes manufactured in Oregon or Washington after April 1, 1992, meet the energy efficiency standards:~~
5. ~~Not have bare metal siding or roofing; and~~
6. ~~Not be sited adjacent to any structure listed on the register of historic landmarks and districts or sited adjacent to any of the historic sites listed in the historic-cultural overlay zone sited in this title.~~

~~"Manufactured dwelling park" means any place where four or more manufactured homes are located within five hundred (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 or lease space, and as defined by ORS 446.~~

~~"Mass" means the volume or apparent bulk of a structure taking into consideration its length, width and height, which relates to the scale of surrounding structures and other development. Apparent mass may be minimized by articulation of elevation surfaces, texture changes, awnings or overhangs, or other similar features.~~

~~"Medical / Recreational Marijuana Facilities" as defined as exists under Oregon State Law, said use being licensed and conditioned and governed or adhering to all governing rules and obligations of the state.~~

~~"Ministerial" means a routine governmental action or decision that involves little or no discretion. The issuance of a zoning compliance is such an action.~~

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

~~"Mixed-use building/development" means a single building or combination of buildings where more than one land use classification is permitted.~~

~~"Mobile home" means a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was:~~

1. ~~Constructed before January 1, 1962;~~
2. ~~Constructed between January 1, 1962 and June 5, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction; or~~
3. ~~Mobile homes and manufactured homes constructed between June 5, 1976 and April 1, 1992, and met the construction requirements in place during that period.~~

~~"Motel" means a building or group of buildings on the same site containing guest units with separate entrances directly to the exterior and consisting of individual sleeping~~

quarters, detached or in connected rows, for rental to transients.

"Multi-family dwelling" means a building containing three or more dwelling units on the same lot or parcel, including units that are located one over the other or side by side and designed for occupancy by three (3) or more households living independently of each other.

"Mural": display painted or affixed directly on a wall which is designed and intended as a decorative or ornamental feature.

"Native grade" means the level of the ground prior to alteration.

"Natural resource areas/natural resources" means the same as sensitive lands.

"Natural hazard" means natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, landslides and flood areas.

"Neighborhood" means a geographic area lived in by neighbors and usually having distinguishing character.

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

"Nonconforming structure or use" means a lawful existing structure or use at the time the ordinance codified in this title or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.

"Nursing home or convalescent home" means a facility providing care, rehabilitation services and minor treatment for more than five persons under the direction of a physician, licensed by the state. May furnish basic provisions of food and laundry. Term includes rest home, home for the aged and sanitarium.

"Office" means a group of rooms used for conducting the affairs of a business, profession, service, industry, institution or government.

"Off-street parking" means all off-street areas designed, used, required or intended to be used for the parking of motor vehicles.

"Old Town" means the geographic area within the city in which the provisions (architectural review overlay zone (AR)) apply as shown on the architectural review overlay zone map.

"On-street parking" means parking in the street right-of-way, typically in parking lanes or bays. Parking may be "parallel" or "angled" in relation to the edge of the right-of-way or curb. See transportation system plan.

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

"Orientation" means to cause to face toward a particular point of reference (e.g.,

"A building oriented to the street").

"Oriented to a street" see Orientation.

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

~~"Overlay zone/district" means overlay zones provide regulations that address specific subjects that may be applicable in more than one land use district.~~

~~"Parcel" means a unit of land that is created by a partition.~~

~~"Parking lot perimeter" means the boundary of a parking lot area which usually contains a landscaped buffer area.~~

~~"Parking space" means a rectangular area together with maneuvering and access space sufficient to permit an automobile to park within the area.~~

~~"Parking vs. storage" means parking is the area used for leaving motor vehicles for a temporary time. Storage is to place or leave in a location for maintenance, repair, sale, rental or future use.~~

~~"Partition land" means to divide land into two or three parcels within a calendar year, but does not include a division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; or an adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance. Partitioning of a lot or parcel or a portion thereof into more than three parcels in a calendar year results in a subdivision.~~

~~"Performance zoning" provides that the criteria for evaluating an application are the net results or effects of the proposal, rather than a rigid set of rules or proscriptions.~~

~~"Person" means every natural person, firm, partnership, association or corporation.~~

~~"Pier" means an exterior vertical building elements that frame each side of a building or its ground-floor windows (usually decorative).~~

~~"Planned unit development (P.U.D.)" means an area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained as a single entity and containing one or more residential clusters; appropriate commercial, public or quasi-public uses may be included if such uses are primarily for the benefit of the residential development.~~

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

~~"Plat" means a diagram, drawing, replat or other document concerning a partition or subdivision. A preliminary plat is a plat submitted prior to actual application and is intended only for department review or discussion. A tentative plat is a plat submitted as part of an application for a partition or subdivision, also referred to as a tentative plan. A final plat is a plat which has been prepared for recording after approval of the tentative plat. A replat is an alteration of a previously recorded plat.~~

~~"Plaza" means a public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales and similar pedestrian~~

activity.

"Pocket park" means a small park, usually less than one-half acre.

"Primary" means the largest or most substantial element on the property, as in "primary": use, residence, entrance, etc. All other similar elements are secondary in size or importance.

"Professional office" means the office of a member of a recognized profession maintained for the conduct of that profession.

"Public improvements" means the development of public facilities.

"Public right of way" means the area commonly shared by pedestrians and vehicles for right of passage. An easement for public travel or access including street, alley, walkway, driveway, trail or any other public way; also, the land within the boundaries of such easement.

"Quasi-judicial" refers to an action or decision that requires substantial discretion or judgement in applying the standards or criteria of this code and usually involves a public hearing.

"Recreational vehicle" means a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational, emergency or other purposes.

"Residential facility" means a facility licensed under ORS 443.400 to 443.455 for eleven (11) or fewer unrelated physically or mentally handicapped persons or elderly persons and not to exceed two staff persons who need not be related to each other or to any other facility resident.

"Resource land" means any land that has been identified and designated on the Coos County Comprehensive Plan and zoning map(s) as forest resource, woodland resource, open space reserve, exclusive farm use, or aggregate resource is considered resource land. This definition shall not be construed to exclude from protection under the provisions of city, state or county law other identified resources which have not been zoned, such as riparian habitat, natural areas, critical winter deer and elk range, historic sites, structures, corridors, or scenic areas.

"Residence" same as "dwelling".

"Residential care home" means as provided by Oregon Revised Statutes, a residence licensed by the State for the care of five or fewer physically or mentally handicapped persons is permitted in residential or commercial zones subject to the normal requirements for a residence. Residents and staff need not be related to each other or any other home resident. Handicapped means that a person suffers from a functional limitation in one or more major life activities.

"Residential care facility" as means provided by Oregon Revised Statutes, a residence licensed by the State for the care of six or more physically or mentally handicapped persons.

"Retail establishment" means a business in which sixty percent (60%) or more of the gross floor area is devoted to the sale or rental of goods, including stocking, to the general public for personal or household consumption or to services incidental to the sale or rental of such goods. For purposes of this section retail establishment also means a

~~movie theater or an indoor recreational use.~~

~~"Retirement home" means a facility providing living quarters, either owned or rented, to persons sixty-two (62) years of age or older. Such facility may be a single structure or a group of structures, and may include limited medical, recreational and commercial services if such services are limited to the residents and their guests.~~

~~"Ridge line (building)" means the top of a roof at its highest elevation.~~

~~"Roof Mounted Antenna" Any antenna and its support structure placed directly on the roof of a building.~~

~~"Roof pitch" means the slope of a roof, usually described as ratio (e.g., 4/12 = 4 feet of vertical rise per twelve (12) feet of horizontal distance).~~

~~"Screening" see "Fence."~~

~~"Senior housing" means housing designated and/or managed for persons over the age of fifty-five (55). (specific age restrictions vary).~~

~~"Sensitive lands" means wetlands, riparian areas, significant trees, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the comprehensive plan.~~

~~"Service drive" means a driveway entering a street from a drive-in business establishment or from an off-street parking area, excluding residential driveways serving fewer than five dwelling units.~~

~~"Setback" means the distance from a lot line to any point of a building or structure. Minimum and maximum setbacks may be required for front, side and rear yards.~~

~~"Scale" means the relationship of a project or structure in terms of size, height, bulk intensity, and aesthetics to its surroundings.~~

~~"Service Area" The area served by a single carrier/provider.~~

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

~~"Shopping Center" means a development consisting of one or more lots sharing appurtenant facilities, such as driveways, parking and pedestrian walkways; and is designed to provide the public with varied products and services at a single location.~~

~~"Sidewalk" means a walking surface, generally located adjacent to a street, which provides pedestrian access.~~

~~"Sign" means any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising a property or the establishment of enterprise, including goods and services, upon which the signs are exhibited. This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by the law or by federal, state, county or city authority.~~

~~"Sign": all or part of any object, structure or device intended to be viewed by the public for advertisement or identification of a business, location, object, person, institution; organization, product, service or event by means including words, pictures, logos, symbols, colors, motion, illumination or projected images.~~

~~"Sign, Time, Date and Temperature": a sign that accurately displays the current~~

~~time, date and/or temperature. Such a sign does not include copy or commercial messages.~~

~~"Sign, reader board" means any sign which can accommodate the manual change of wording, copying or text.~~

~~"Sign, electronic display" means a computer operated sign with capacity for text and or graphic information.~~

~~"Single family dwelling means a dwelling that does not share a wall with any other building and is located on its own lot or parcel.~~

~~"Single family dwelling, attached means two or more dwellings with common end walls each on its own lot or parcel.~~

~~"Single family detached zero lot line house" means a single family detached house with one side yard setback equal to zero.~~

~~"Site" means a property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this code.~~

~~"Standards and criteria." Standards means code requirements. Criteria means the elements required to comply with a particular standard.~~

~~"Statutory vegetation line". that line described according to the Oregon Coordinate System and set forth in ORS 290.770 for the purpose of identifying lands subject to the department's authority to regulate improvements on the ocean shore. The line consists of a series of connected line segments.~~

~~"Steep slopes" means slopes of greater than thirty (30) percent.~~

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

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

~~"Story" means a portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above ground, the basement or cellar shall be considered a story.~~

~~"Street" means a public or private way that is created to provide ingress and egress for persons to one or more lots, parcels, areas or tracts of land (includes "road").~~

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

~~"Street furniture/furnishings" means bench es, lighting, bicycle racks, drinking fountains, mail boxes, kiosks and similar pedestrian amenities located within a street right-of-way.~~

~~"Street stub" means a temporary street ending (i.e., where the street will be extended through adjacent property in the future, as those properties develop). Not a~~

~~permanent street end or dead-end street.~~

~~"Street tree" means a tree planted in a planter strip or tree cut-out.~~

~~"Structure" means that which is built or constructed; an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.~~

~~"Structural alteration" means any change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams or girders or any structural changes in the roof.~~

~~"Subdivide land" means to divide an area, parcel, or tract of land into 1) four or more lots within a calendar year or 2) any division of land which creates a street.~~

~~"Subdivision" means the act of subdividing land or an area, or a tract of land subdivided as defined above.~~

~~"Support Structure" A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.~~

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

~~"Tangent" means the meeting of a curve or surface in a single point.~~

~~"Tax lot" means a parcel, lot or other unit of land as created by the county assessor for the purpose of taxation. A tax lot may also be a lot or parcel when created at a property owners request for the purpose of land division consistent with applicable planning and zoning regulations in effect at that time.~~

~~"Telecommunications" as defined in the Federal Telecommunications Act of 1996, means the transmission between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.~~

~~"Temporary field or construction office" means a temporary office and temporary material storage used in connection with the property. This use may be permitted for a specified period of time in accordance with a permit issued by the building official.~~

~~"Terrace" means a porch or promenade supported by columns, or a flat roof or other platform on a building.~~

~~"Topographical constraint" means where existing slopes prevent conformance with a code standard.~~

~~"Tower" A pole, telescoping mast, tripod or any other structure that provides support for or is an integral component of such devices as wireless antennas, wind power generation facilities and meteorological measuring and recording equipment.~~

~~"Tract: private/public" means a piece of land set aside in a separate area for dedication to the public, a homeowners association, or other entity (e.g., open space, recreation facilities, sensitive lands, etc.).~~

~~"Trailer house" means a building or vehicle which was originally designed or presently constructed to be used as a human dwelling or lodging place and to be moveable from place to place over streets.~~

~~"Trailer park" means a plot of ground upon which one or more trailer houses~~



~~occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodation.~~

~~"Transportation facilities" means the physical improvements used to move people and goods from one place to another (i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.).~~

~~"Transportation mode" means the method of transportation (e.g., automobile, bus, walking, bicycling, etc.).~~

~~"Triplex" means a building with three attached housing units on one lot or parcel.~~

~~"Use" means the purpose for which land, roadways or a structure is designed, arranged, or intended, or for which it is occupied or maintained, whether on a permanent or temporary basis.~~

~~"Utility facility" means those necessary appurtenances including related rights of way for the transmission of electric power, water, sewerage, telephone and other inline facilities needed for the operation of such facilities, such as pumping stations, power or communication substations, dams, reservoirs, and related power houses. Additionally, a utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal or similar sources.~~

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

~~"Vacation rental dwelling (VRD)" means an existing single-family detached dwelling which is rented, or is available for rent (whether advertised or not) for a period of less than one month to a family, group or individual. A VRD is considered to be a commercial use. (Ord. 1625, 9/18)~~

~~"Variance" means an administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this code.~~

~~"Violation" is an act of any person which is prohibited or prevented by the Bandon comprehensive plan, land development regulations or other state or county law, or the failure of any person to act as required by the comprehensive plan, land development regulations or other state or county law.~~

~~"Vision clearance area" means an area at a driveway, intersection, right-of-way, or public access in which the height of plantings and structures are limited to allow the maximum visibility upon approach. [Ref. 17.104.090 Vision Clearance]~~

~~"Wetland" means land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities. They are defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-85-010).~~

~~"Wireless communication equipment" includes cell towers, antennae, monopoles and related facilities used for signal transmission and receiving.~~

~~"Yard" means an open space on a lot, which is unobstructed from the ground upward by buildings or structures, except as otherwise provided for in this code.~~

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~~"Yard, front" means a yard between side lot lines, measured horizontally at right angles from the front lot line, to the nearest point of a building or other structure.~~

~~"Yard, rear" means a yard between side lot lines, measured horizontally at right angles from the rear lot line, to the nearest point of a building or other structure.~~

~~"Yard, side" means a yard between the front and rear yards, measured horizontally at right angles from the rear lot line, to the nearest point of a building or other structure. (Ord. 1471 (part), 2001)~~

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## Chapter 16.50

### VALIDITY, VARIANCES AND ENFORCEMENT

#### Sections:

~~16.50.010 — Validity.~~

~~16.50.020 — Variance application.~~

~~16.50.050 — Violation—Penalty.~~

~~16.50.060 — Sanctions for violation.~~

~~16.50.010 — Validity.~~

~~If any provision of this title shall for any reason be judged invalid or unconstitutional, the judgment shall not affect the validity of the rest of the title, it being expressly declared that each and every provision hereof is severable and independent of each and every other provision of this title.~~

~~16.50.020 — Variance application.~~

~~The planning commission may authorize variances to requirements of this title. Application for a variance shall be made at the time the land division application is made and shall be made in accordance with the requirements of Chapter 17.112.~~

~~16.50.050 — Violation—Penalty.~~

~~It is declared that any act or omission of any person, firm or corporation, whether as principle, agent or employee, or otherwise, to comply with any term or condition of this title constitutes a public nuisance. In addition to any other remedies provided by law, the city may immediately commence action or proceeding to abate, remove, and/or temporarily or permanently enjoin the nuisance pursuant to Chapter 8.08 and/or in any manner provided by law, and may take such other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove the nuisance. Violation of this title is punishable in accordance with Chapter 1.16.~~

~~16.50.060 — Sanctions for violation.~~

~~If the city council shall determine that property has been partitioned or divided in violation of the terms of this title, it may by motion or resolution refuse to extend any utility services to the property. Notice of such action shall be given to the owner or purchaser of the property who shall be informed that if hearing is not requested before the council within twenty (20) days of receipt of the notice, the action of the council shall become final. the council may provide for recording of its action.~~

## Title 17

### ZONING

#### Chapters:

- ~~17.02~~ ~~Definitions.~~
- ~~17.04~~ ~~Introductory Provisions~~
- 17.08 Establishment of Zones
- 17.12 Residential 1 (R-1) Zone
- 17.16 Residential 2 (R-2) Zone
- 17.20 Controlled Development 1 (CD-1) Zone
- 17.24 Controlled Development 2 (CD-2) Zone
- 17.28 Controlled Development 3 (CD-3) Zone
- 17.32 Controlled Development Residential 1 (CD-R1) Zone
- 17.36 Controlled Development Residential 2 (CD-R2) Zone
- 17.40 Old Town Commercial (C-1) Zone
- 17.44 General Commercial (C-2) Zone
- 17.48 Marine Commercial (C-3) Zone
- 17.52 Light Industrial (LI) Zone
- 17.54 Woolen Mill Overlay Zone (WM) (*Repealed by Ord 1604*)
- 17.56 Heavy Industrial (HI) Zone
- 17.60 Public Facilities and Parks (PF) Zone
- 17.64 Water (W) Zone
- 17.68 Natural Resource and Open Space (NR) Zone
- 17.72 Historic-Cultural Overlay (HC) Zone
- 17.76 Shoreland Overlay (SO) Zone
- 17.77 Beaches and Dunes Overlay (BDO) Zone
- 17.84 Architectural Review Overlay (AR) Zone
- 17.88 Airport Overlay (AO) Zone
- 17.89 Communications Tower Overlay Zone
- 17.90 Signs
- ~~17.92~~ ~~Conditional Uses~~
- 17.94 Commercial Design Standards
- 17.96 Off-Street Parking and Loading
- 17.98 Outdoor Lighting Regulations
- ~~17.100~~ ~~Planned Unit Development~~
- 17.102 Wetland Protection Standards
- 17.103 Riparian Corridor Protection
- 17.104 Supplementary Provisions
- 17.108 Nonconforming Uses and Structures
- ~~17.112~~ ~~Variances~~
- ~~17.116~~ ~~Zone Changes and Amendments~~
- 17.118 Annexation
- ~~17.120~~ ~~Administration and Enforcement~~
- ~~17.124~~ ~~Appeals~~

Ordinance History: No. 868, 972, 1073, 1090, 1103, 1125, 1127, 1130, 1140, 1141, 1153, 1154, 1175, 1186, 1188, 1192, 1195, 1201, 1213, 1223, 1226, 1227, 1228, 1236, 1237, 1240, 1265, 1275, 1291, 1301, 1305, 1308, 1313, 1314, 1316, 1320, 1329, 1336, 1363, 1365, 1377, 1387,

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## Chapter 17.02

### DEFINITIONS

#### Sections:

##### 17.02.010 Definitions.

##### 17.02.010 Definitions.

As used in Title 16 and Title 17, the masculine includes the feminine and neuter and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

"A Frame or Sandwich": an advertising device which is ordinarily in the shape of an A or some variation thereof, located on the ground, easily movable, not permanently attached thereto and which is usually two-sided.

"Abandonment" Wireless telecommunications facilities will be considered abandoned when there has not been a carrier licensed or recognized by the Federal Communications Commission operating on the facility for a period of one year (365 consecutive days).

"Abutting" means sharing a common property line. It shall include the term adjoining.

"Access" means a legally and physically defined area available and practical for motor vehicle ingress and egress to a parcel or lot. In determining practicality, the topography, drainage, potential for erosion and other factors may be considered.

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

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

"Accessible" means approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.

"Accessory dwelling" an interior attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. A maximum of one Accessory Dwelling Unit is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of the detached accessory building (e.g. above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g. an addition or the conversion of an existing floor).

"Accessory structure or use" means a structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use.

"Adjacent" means parcels or lots located directly across a street right-of-way.

"Adult foster home" means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage which must be inspected and licensed by the state of Oregon.

"Adverse impact" means negative affect of development that can be measured (e.g., noise, air pollution, vibration, dust, etc.).

"Affordable" means housing affordable to a certain percentage of the population earning a specified level of income and spending no more than the U. S. Department of Housing and Urban Development percentage of their income on housing expenses. For more information, refer

to the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

"Alley" means a narrow street through a block primarily for vehicular service access or utilities to the back or side of properties otherwise abutting on another street.

"Ambient" means something that surrounds, or is in the background, such as the level of light, dust or noise.

"Antenna" A transmitting or receiving device used in telecommunications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips.

"Antenna, Whip" An antenna that transmits or receives 360-degree signals. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting assembly.

"Arcade" an arched or covered passageway; often along building fronts or between streets.

"Application" means an application for a Development Permit.

"Approving Authority" means the Planning Commission, City Manager, or designate.

"Appurtenant" means auxiliary or accessory to the main use.

"Architectural projections" means protrusions of a building wall that are extended so as to create articulation of the exterior building wall.

"Architectural recesses means portions of a building wall that are set back so as to create articulation of the exterior building wall.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Arterial" means a vehicular right-of-way whose primary function is to carry through-traffic in a continuous route across an urban area while also providing some access to abutting land.

"Articulate/articulation" means the jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

"Attached": be attached; affixed; be in contact with; become attached by construction, adhesive, tying, or any other means.

"Auto gas/service Station" means a commercial entity whose primary purpose is the dispensing of gasoline or other fuel for use by automobiles, trucks, or other vehicles.

"Banner": a sign made of any lightweight, non-rigid material such as plastic, fabric, or other flexible material with no enclosing framework.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, i.e., the one hundred (100) year flood.

"Base flood elevation" means the crest elevation, in relation to mean sea level, expected to be reached by the base flood, also known as the regulatory flood elevation.

"Bed and breakfast (B&B)" means an accessory use of a single-family dwelling for the lodging of guests for compensation. B&B's shall contain no more than two bedrooms for sleeping quarters for the guests, and the breakfast shall be included in the fee and available to the guests in a common area. This use shall be operated primarily by members of the resident family. There may be no other conditional uses or home occupations conducted at the same time at a site designated as a B&B. Two parking spaces must be provided on the property in addition to the spaces required for the main use. Each unit including the resident family's unit shall require one thousand eight hundred (1,800) square feet of lot area. For the purposes of this definition, the family living quarters shall be considered one unit regardless of the number of bedrooms in the family quarters.

"Bed and breakfast inn (B&B inn)" means a structure that retains the characteristics of a single-family residence and is compatible with the surrounding structures, which offers for compensation more than two but not more than eight bedroom units for sleeping quarters to guests and is licensed by the state of Oregon under OAR Sections 333-170-0000 through

333-170-0130, and where breakfast is included in the fee and available to the guests in a common area. This use shall be operated primarily by the resident family. In addition to the two parking spaces required for the resident use of the facility, one space shall be required for each B&B unit plus one space for each outside employee. Each unit including the resident family's unit shall require one thousand eight hundred (1,800) square feet of lot area. For the purposes of this definition, the family living quarters shall be considered one unit regardless of the number of bedrooms in the family quarters. B&B inn sites shall be considered residential sites subject to provisions of this title except as specifically modified in this definition.

"Berm" means a small rise or hill in a landscape which is intended to buffer or visually screen certain developments.

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

"Bikeway" means any road, path or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

"Block" means a parcel of land or group of lots bounded by intersecting streets.

"Board" means the architectural review board.

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

"Boulevard" means a street with broad open space areas; typically with planted medians.

"Building" means a structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, but not including swimming pools, fences and patios.

"Building footprint" means the outline of a building, as measured around its foundation.

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

"Building pad" means a vacant building site on a lot with other building sites.

"Building scale" means the dimensional relationship of a building and its component parts to other buildings.

"Bulkhead" means the wall below ground-floor windows on a building (i.e., may be differentiated from other walls by using different materials or detailing).

"Business" means a commercial or industrial enterprise.

"Business office" means the office of an enterprise in providing services for a fee.

"Capacity" means a maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

"Carrier / Provider" A company that provides wireless services.

"Carrier / Provider, Licensed" A company authorized by the FCC to build and operate a commercial communication services system.

"Centerline radius" means the radius of a centerline of a street right-of-way.

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

"City" means the city of Bandon, Oregon.

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

"COA" means certificate of appropriateness.

"Collector" means a street that carries traffic between urban arterials and local streets and provides access to abutting properties.

"Collocation" The use of a single support structure by more than one wireless telecommunications carrier/provider; including the use of an existing structure as a

telecommunications antenna mount, such as a water tank, fire station, utility poles, towers, etc., by one or more carriers.

"Commercial" means land use involving buying/selling of goods or services as the primary activity.

"Commission" means the planning commission of the city.

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

"Communication Tower" A tower, pole, or similar structure of any size which supports wireless telecommunication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users, above ground in a fixed location, free-standing, guyed, or on a structure. This definition does not include communication towers for amateur radio operators licensed by the Federal Communications Commission (FCC), which are exempt from local zoning restrictions. A Communication Tower may also be utilized as part of a mobile system for purposes of providing short-term emergency, supplemental or specialized wireless telecommunications services.

"Conditional use" means a use which requires a conditional use permit.

"Condominium" means a building, or group of buildings, in which dwelling units, offices or floor area are owned individually, and the structures, common areas and facilities are owned by all the owners of a proportional, undivided basis.

"Condominium association" means the community association that administers and maintains the common property and common elements of a condominium.

"Condominium hotel" means a building constructed, maintained, operated and managed as a hotel in which each room is individually owned and in which some or all of the rooms are available for rent, sublet or lease and where the structure, common areas and facilities are owned by all the owners on a proportional, individual basis.

"Consensus" means collective agreement, consent or opinion among participants.

"Conservation easement" means an easement that protects identified conservation values of the land, such as wetlands, wood-lands, significant trees, floodplains, wildlife habitat, and similar resources.

"Contiguous" mean lots, parcels, or lots and parcels that have a common boundary.

"Contiguous" includes, but is not limited to, lots, parcels or lots and parcels separated only by an alley, street or other right of way or flagpole. Lots or parcels are not contiguous if their common boundary is an arterial or collector street.

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

"Cornice" means the projecting horizontal element that tops a wall or flat roof.

"Cottage" means a small house that may be used as an accessory dwelling.

"Council" means the city council of the city.

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

"Cul-de-sac" means a local street having only one outlet with a turnaround at the opposite end, and which is not intended to be extended or continued.

"Curb cut" means a driveway opening where a curb is provided along a street.

"Day care" means the act of caring for another person's children at a site, usually, but not always, for a fee.

"Day care (family day care provider)" applies only to any family day care provider who provides care in the home of the provider to fewer than thirteen (13) children, including the children of the provider, regardless of full-time or part-time status. Such use shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for a single-family dwellings in the same zone.

"Deciduous" means tree or shrub that sheds its leaves seasonally.



"Deck" means a flat, floored, roofless structure, generally elevated above ground level, connected to or adjoining a building.

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

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

"Density bonus" means an increase in the number of dwelling units per acre permitted in a planned unit development as an incentive for exceptionally good design or reasons as specified by ordinance.

"Density transfer" means a measurement of the average density of housing in a parcel. For example, on a four-acre site, if the normal density allowed is eight dwellings per acre, the total allowed would be thirty-two (32) dwellings. A proposed siting might be to erect these dwellings in a cluster or clusters for some justifiable reason, rather than have each dwelling occupy its own five thousand six hundred (5,600) square foot lot.

"Developable" means a buildable land, as identified in the city's buildable land inventory. Includes both vacant land and land that can be redeveloped.

"Developer" means a person or other legal entity who subdivides or partitions land, or constructs on more than one parcel of land.

"Development" means any manmade change to improved or unimproved tracts of land, including, but not limited to, construction of buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations located within the area. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.

"Development permit" means any permit or authorization issued by the city as a pre-requisite for undertaking any development. It includes permits and authorizations customarily known as certificates of appropriateness, building permits, zoning compliances, variances, conditional use permits, street plans, plat approvals, subdivision or planned unit development permits.

"Development review board" means a review body comprised of city departments which reviews applications and makes recommendations to the decision-making body.

"Directional Sign": a sign which directs the reader to a location, event, or activity. Such signs also include signs designed and installed for the purpose of traffic or pedestrian direction to an entrance or exit from premises.

"Director" means the planning director of the city of Bandon, or a designee.

"Divide" means to separate land into two or more parcels or lots for the purpose of transferring a substantial interest in land.

"Division" means the act or process of dividing land or a tract that has been divided.

"Discretionary" describes a permit action or decision that involves substantial judgment or discretion.

"Double frontage" means a term used to describe a lot or parcel which has road access and frontage at each end. Corner lots are not considered to have double frontage unless they front roads on three sides. Alley access is not considered "frontage" in this definition.

"Drip-line" means an imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

"Drive lane/travel lane" means an improved driving surface for one line of vehicles traveling in the same direction.

"Drive-up uses" means any establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive or obtain goods while remaining in their motor vehicles. Drive-up uses shall not include service or gas stations.

"Driveway" means areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the pro-erty line and extends into the site. Driveways do not include parking, maneuvering or circulation areas in parking space areas.

"Driveway apron/approach" means the edge of a driveway where it abuts a public right-of-way; usually constructed of concrete or asphalt.

"Duplex" means a building with two attached housing units on one lot or parcel.

"Dwelling" means a building, or portion thereof, designed or used for human occupancy as a residence for one or more persons, not including vehicles, travel trailers or recreational/camping vehicles.

"Dwelling, attached" means a one-family dwelling attached to two or more one-family dwellings by common vertical walls.

"Dwelling, detached" means a dwelling that is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall or floor in common with any other dwelling unit.

"Dwelling, seasonal" means a dwelling unit not used as a principal residence that may be occupied weekends and for brief periods during the year.

"Dwelling, single-family detached" means a building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

"Dwelling, single-family semidetached" means a one-family dwelling attached to one other one-family dwelling by a common vertical wall, with each dwelling located on a separate lot. The semidetached dwelling is most commonly a two-family structure with the dwelling units side by side as opposed to one on top of the other. A semidetached dwelling also could be the end unit of a townhouse row, a patio house or a variety of zero lot line houses.

"Dwelling, townhouse" means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

"Dwelling, triplex" means a building containing three dwelling units, each of which has direct access to the outside or to a common hall.

"Dwelling, two-family" means a building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

"Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence for ten (10) or fewer persons. (UBC 205)

"Easement" means a right of usage of real property granted by an owner to the city, the public or to specific persons, firms, and corporations.

"Electronic Display or Reader-board Sign": a computer operated sign with capacity for text and or graphic information.

"Elevation" refers to a building face, or scaled drawing of the same, from grade to roof ridgeline.

"Environmentally sensitive areas" see "sensitive lands."

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

"Face" means the facade of a structure facing a street.

"Family" means an individual or two or more persons related by blood, marriage, legal adoption or guardianship, living together in a dwelling unit in which board and lodging may also be provided for no more than four additional persons, excluding servants; or a group of not more than five persons who need not be related by blood, marriage, legal adoption or guardianship living together in a dwelling unit.

"Facade" means any exterior wall of a building.

"Family day care" see "child care facilities."

"Farming" or "farm use" means the use of land for raising and harvesting of crops, or for feeding, breeding and management of livestock, dairying or any other agricultural or horticultural use, or any combination thereof, including the preparation of the products raised on the premises for man's use and disposal by marketing or otherwise.

"Fast Food Restaurant" means a business whose principal purpose is the sale of food or beverage served in paper or plastic or disposable containers for immediate consumption inside, outside, or away from the building and including businesses who provide delivery of food for immediate consumption.

"Fence" means an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

"Finished Grade" means the level of the ground after alteration as approved by the Planning Commission or City Council.

"Fire apparatus lane" also known as a fire lane, an area which must be preserved for the ingress, egress, and operation of fire apparatus.

"Flag lot" means a lot that is mostly separated from the street, located behind another lot, and connected to the street by an extension of land that reaches to the street.

"Flag pole" means the long, narrow portion of a flag lot that connects the back portion of the lot to the street.

"Flood or flooding" means a general temporary condition or partial or complete inundation of normally dry land areas from 1) The overflow of inland waters, and/or 2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood hazard boundary map" means an official map of a community issued by the Federal Emergency Management Agency (FEMA) where the boundaries of the flood, mudslide (i.e. mudflow), and related erosion areas having hazards have been designated.

"Flood insurance" means the insurance coverage provided under the federal flood insurance program.

"Flood insurance rate map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood plain, one hundred (100) year" means the land within the city subject to a one percent chance of flooding in any given year, including the flood way and flood way fringe.

"Flood prone" means areas likely to be flooded by virtue of their location adjoining a river, stream or other water course or water body to the extent where the level of hazard exceeds acceptable designated floodplain, flood way and approximate method floodplain, torrential flood hazard area identified by the Department of Geology and Mineral Industries, and other areas both within or outside of FEMA mapped areas which are either known to be flood prone or where flood hazard conditions may be more extreme than indicated by FEMA and development would jeopardize life or property.

"Flood proofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Flood way" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floor area" means the area included within the surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

"Floor area ratio (FAR)" means the gross floor area of all buildings or structures on a lot divided by the total lot area.

"Foredune" means the dune closest to the high tide line that extends parallel to the beach.

The foredune can be divided into three sections: the frontal area (closest to water); the top surface; and the lee or reverse slope (backside).

"Free Standing Sign": a sign which is attached to or a part of a completely self- supporting structure. The supporting structure will be set firmly in or below the ground surface and will not be attached to any building or any other structure whether portable or stationary.

"Frontage" means the dimension of a property line abutting a public or private street.

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

"Functional classification" means the classification given to streets in the transportation system plan, includes arterials, collectors, and local streets.

"Garage, private" means an accessory building or portion of a main building used for noncommercial parking or storage of vehicles.

"Garage, public" means a building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

"Grade" means the elevation of the ground level.

"Ground cover" means a plant material or non-plant material (e.g., mulch, bark chips/dust) that is used to cover bare ground.

"Hammerhead turnaround" means a "T" or "V" shaped dead-end street that allows for vehicles to turn around.

"Handbill" A solicitation printed on loose paper or cardboard designed for advertisement or identification of a sale, business, location, object, person, institution, organization, product, service or event

"Hardscape" means non-plant landscape materials, including pathways, decorative payers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas and similar amenities.

"Hearing, legislative" means a hearing concerning the creation of law or policy, as in a hearing on a new or amended ordinance, plan, plan policy or map.

"Hearing, quasi-judicial" means a hearing concerning the application of law or policy to a specific individual or property, as in a hearing on an application for a conditional use, variance or rezone of a single property.

"Height of building or structure" means the vertical distance from the native grade to the highest point of the roof. On slopes, the height of the structure shall be determined by taking the height of each side of the building measured from grade at the center of the wall to the highest point of the roof and divided by the number of measured sides.

"Home occupation" means an occupation commonly carried on within a dwelling by members of the family occupying the dwelling, without outside employees, provided that the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor outwardly manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupation of their homes. A home occupation does not involve the retail sale of a product on the premises, nor the use of any accessory building, nor does it occupy more than thirty (30) percent of the floor area of the dwelling. A home occupation is an accessory use.

"Hospital" means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.

"Hotel" means a building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.

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

or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic.

"Illumination External": a source of illumination outside of a sign

"Illumination Internal": a source of illumination from within a sign

"Impervious surface" means a development which does not allow for water infiltration (e.g., pavement, roofs, etc.).

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

"Incompatibility of land uses" means an issue arising from the proximity or direct association of contradictory, incongruous or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation and similar environmental conditions.

"Infill" means the development of land located in an area that is mainly developed.

"Kennel" means a lot or building in which four or more dogs or cats at least four months of age are kept commercially for board, propagation or sale.

"Land division" means the process of dividing land to create parcels or lots.

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

"Land use decision" means a final decision or determination made by a local government that concerns the adoption, amendment or application of the statewide goals, a comprehensive plan provision, a land use regulation or a new land use regulation. Does not include limited land use decisions or expedited partitions. (ORS 197.015)

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

"Landing" means a level part of a staircase, as at the end of a flight of stairs.

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

"Lane, mid-block lane" means a narrow, limited use roadway facility usually used to access a limited number of dwelling units; similar to an alley in design.

"Legislative" means a legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation).

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

"Limited land use decision" a final decision or determination made by a local government pertaining to a site within an urban growth boundary which concerns the approval or denial of a subdivision and the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site reviews, plan reviews and design reviews. (ORS 197.195)

"Live/Work/Sell/Residential" means a dwelling in or attached to a commercial or industrial use, which is intended to be occupied by the owner or employee(s) who work at or in that commercial or industrial use. Should the dwelling be occupied by person(s) other than the owner or employee(s), the City shall not revoke any permit for the dwelling provided that there has been

recorded with the County Clerk an acknowledgment that the owner has or will inform any occupants of the Live/Work/Sell/Residential dwelling, that the residential premises are in or attached to a commercial or industrial use, subjecting occupants to noise and other disturbances and nuisances associated with commercial and industrial uses and activities. Such form of acknowledgment can be a City proscribed form to be acknowledged by the owner upon receiving a permit for a Live/Work/Sell/Residential use.

"Livestock" means domestic animal types customarily raised or kept on farms.

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

"Local street" means a street that primarily provides access to abutting property. It typically has low traffic volumes and low speeds.

"Logo": a recognizable graphic design element, representing an organization or product . A sign, name, or trademark of an institution, firm, or publication, consisting of letter forms borne on one printing plate or piece of type.

"Lot" means a lot is a unit of land that is created by a subdivision of land (ORS 92.010(3)).

"Lot area" means the total surface area (measured horizontally) within the lot lines of a lot.

"Lot corner" means a lot, parcel or portion thereof, situated at the intersection of two or more streets.

"Lot depth" means the average horizontal distance between the front lot or parcel line and the rear lot or parcel line.

"Lot, interior" means a lot other than a corner lot.

"Lot line" means the property line bounding a lot or parcel.

"Lot line, front" means the property line separating the lot or parcel from the road or street, other than an alley. In the case of a corner lot or parcel or a lot with double frontage, the shortest property line along a street or road which has been improved and for which addresses have already been assigned, other than an alley. In the case of a flag lot or other parcel or lot, where the majority of the lot or parcel does not front on a road, the front lot or parcel line shall be one of the shortest lines, if a rectangular lot or parcel.

"Lot line, rear" means a property line which is opposite and most distant from the front lot or parcel line. In the case of an irregular, triangular or other shaped lot or parcel, a line ten feet in length within the lot or parcel, parallel to, and at a maximum distance from, the front lot or parcel line.

"Lot line, side" means any property line, not a front or rear lot or parcel line.

"Lot width" means the average horizontal distance between the side lot or parcel lines, calculated by dividing the lot area measured in square feet by the length of the lot (e.g., the distance between the front and rear property lines excluding the flag strip) measured in feet.

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

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

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

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

"Manufactured dwelling" or "manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standard regulations in effect at the time of construction; and also meets the following standards:

A manufactured home placed outside of a manufactured home subdivision or a mobile home park shall:

1. Be multi-sectional (double-wide or wider) and enclose a floor area of not less than one thousand (1,000) square feet;
2. Be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than sixteen (16) inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than sixteen (16) inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the sixteen (16) inch limitation will not apply;
3. Have a roof with a nominal pitch of three feet in height for each twelve (12) feet in width;
4. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010. (Evidence demonstrating that the manufactured home meets "super goods cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer's certification shall not be required). Homes manufactured in Oregon or Washington after April 1, 1992, meet the energy efficiency standards;
5. Not have bare metal siding or roofing; and
6. Not be sited adjacent to any structure listed on the register of historic landmarks and districts or sited adjacent to any of the historic sites listed in the historic-cultural overlay zone sited in this title.

"Manufactured dwelling park" means any place where four or more manufactured homes are located within five hundred (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 or lease space, and as defined by ORS 446.

"Mass" means the volume or apparent bulk of a structure taking into consideration its length, width and height, which relates to the scale of surrounding structures and other development. Apparent mass may be minimized by articulation of elevation surfaces, texture changes, awnings or overhangs, or other similar features.

"Medical / Recreational Marijuana Facilities" as defined as exists under Oregon State Law, said use being licensed and conditioned and governed or adhering to all governing rules and obligations of the state.

"Ministerial" means a routine governmental action or decision that involves little or no discretion. The issuance of a zoning compliance is such an action.

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

"Mixed-use building/development" means a single building or combination of buildings where more than one land use classification is permitted.

"Mobile home" means a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was:



1. Constructed before January 1, 1962;
2. Constructed between January 1, 1962 and June 5, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction; or
3. Mobile homes and manufactured homes constructed between June 5, 1976 and April 1, 1992, and met the construction requirements in place during that period.

"Motel" means a building or group of buildings on the same site containing guest units with separate entrances directly to the exterior and consisting of individual sleeping quarters, detached or in connected rows, for rental to transients.

"Multi-family dwelling" means a building containing three or more dwelling units on the same lot or parcel, including units that are located one over the other or side by side and designed for occupancy by three (3) or more households living independently of each other.

"Mural": display painted or affixed directly on a wall which is designed and intended as a decorative or ornamental feature.

"Native grade" means the level of the ground prior to alteration.

"Natural resource areas/natural resources" means the same as sensitive lands.

"Natural hazard" means natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, landslides and flood areas.

"Neighborhood" means a geographic area lived in by neighbors and usually having distinguishing character.

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

"Nonconforming structure or use" means a lawful existing structure or use at the time the ordinance codified in this title or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.

"Nursing home or convalescent home" means a facility providing care, rehabilitation services and minor treatment for more than five persons under the direction of a physician, licensed by the state. May furnish basic provisions of food and laundry. Term includes rest home, home for the aged and sanitarium.

"Office" means a group of rooms used for conducting the affairs of a business, profession, service, industry, institution or government.

"Off-street parking" means all off-street areas designed, used, required or intended to be used for the parking of motor vehicles.

"Old Town" means the geographic area within the city in which the provisions (architectural review overlay zone (AR)) apply as shown on the architectural review overlay zone map.

"On-street parking" means parking in the street right-of-way, typically in parking lanes or bays. Parking may be "parallel" or "angled" in relation to the edge of the right-of-way or curb. See transportation system plan.

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

"Orientation" means to cause to face toward a particular point of reference (e.g., "A building oriented to the street").

"Oriented to a street" see Orientation.

"Outdoor commercial use" means a use supporting a commercial activity which provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the



site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses.

"Overlay zone/district" means overlay zones provide regulations that address specific subjects that may be applicable in more than one land use district.

"Parcel" means a unit of land that is created by a partition.

"Parking lot perimeter" means the boundary of a parking lot area which usually contains a landscaped buffer area.

"Parking space" means a rectangular area together with maneuvering and access space sufficient to permit an automobile to park within the area.

"Parking vs. storage" means parking is the area used for leaving motor vehicles for a temporary time. Storage is to place or leave in a location for maintenance, repair, sale, rental or future use.

"Partition land" means to divide land into two or three parcels within a calendar year, but does not include a division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; or an adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance. Partitioning of a lot or parcel or a portion thereof into more than three parcels in a calendar year results in a subdivision.

"Performance zoning" provides that the criteria for evaluating an application are the net results or effects of the proposal, rather than a rigid set of rules or proscriptions.

"Person" means every natural person, firm, partnership, association or corporation.

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

"Planned unit development (P.U.D.)" means an area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained as a single entity and containing one or more residential clusters; appropriate commercial, public or quasi-public uses may be included if such uses are primarily for the benefit of the residential development.

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

"Plat" means a diagram, drawing, replat or other document concerning a partition or subdivision. A preliminary plat is a plat submitted prior to actual application and is intended only for department review or discussion. A tentative plat is a plat submitted as part of an application for a partition or subdivision, also referred to as a tentative plan. A final plat is a plat which has been prepared for recording after approval of the tentative plat. A replat is an alteration of a previously recorded plat.

"Plaza" means a public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales and similar pedestrian activity.

"Pocket park" means a small park, usually less than one-half acre.

"Primary" means the largest or most substantial element on the property, as in "primary": use, residence, entrance, etc. All other similar elements are secondary in size or importance.

"Professional office" means the office of a member of a recognized profession maintained for the conduct of that profession.

"Public improvements" means the development of public facilities.

"Public right of way" means the area commonly shared by pedestrians and vehicles for right of passage. An easement for public travel or access including street, alley, walkway, driveway, trail or any other public way; also, the land within the boundaries of such easement.

"Quasi-judicial" refers to an action or decision that requires substantial discretion or judgement in applying the standards or criteria of this code and usually involves a public hearing.

"Recreational vehicle" means a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational, emergency

or other purposes.

"Residential facility" means a facility licensed under ORS 443.400 to 443.455 for eleven (11) or fewer unrelated physically or mentally handicapped persons or elderly persons and not to exceed two staff persons who need not be related to each other or to any other facility resident.

"Resource land" means any land that has been identified and designated on the Coos County Comprehensive Plan and zoning map(s) as forest resource, woodland resource, open space reserve, exclusive farm use, or aggregate resource is considered resource land. This definition shall not be construed to exclude from protection under the provisions of city, state or county law other identified resources which have not been zoned, such as riparian habitat, natural areas, critical winter deer and elk range, historic sites, structures, corridors, or scenic areas.

"Residence" same as "dwelling".

"Residential care home" means as provided by Oregon Revised Statutes, a residence licensed by the State for the care of five or fewer physically or mentally handicapped persons is permitted in residential or commercial zones subject to the normal requirements for a residence. Residents and staff need not be related to each other or any other home resident. Handicapped means that a person suffers from a functional limitation in one or more major life activities.

"Residential care facility" as means provided by Oregon Revised Statutes, a residence licensed by the State for the care of six or more physically or mentally handicapped persons.

"Retail establishment" means a business in which sixty percent (60%) or more of the gross floor area is devoted to the sale or rental of goods, including stocking, to the general public for personal or household consumption or to services incidental to the sale or rental of such goods. For purposes of this section retail establishment also means a movie theater or an indoor recreational use.

"Retirement home" means a facility providing living quarters, either owned or rented, to persons sixty-two (62) years of age or older. Such facility may be a single structure or a group of structures, and may include limited medical, recreational and commercial services if such services are limited to the residents and their guests.

"Ridge line (building)" means the top of a roof at its highest elevation.

"Roof Mounted Antenna" Any antenna and its support structure placed directly on the roof of a building.

"Roof pitch" means the slope of a roof, usually described as ratio (e.g., 4/12 = 4 feet of vertical rise per twelve (12) feet of horizontal distance).

"Screening" see "Fence."

"Senior housing" means housing designated and/or managed for persons over the age of fifty-five (55). (specific age restrictions vary).

"Sensitive lands" means wetlands, riparian areas, significant trees, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the comprehensive plan.

"Service drive" means a driveway entering a street from a drive-in business establishment or from an off-street parking area, excluding residential driveways serving fewer than five dwelling units.

"Setback" means the distance from a lot line to any point of a building or structure. Minimum and maximum setbacks may be required for front, side and rear yards.

"Scale" means the relationship of a project or structure in terms of size, height, bulk intensity, and aesthetics to its surroundings.

"Service Area" The area served by a single carrier/provider.

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

"Shopping Center" means a development consisting of one or more lots sharing appurtenant facilities, such as driveways, parking and pedestrian walkways; and is designed to provide the public with varied products and services at a single location.

"Sidewalk" means a walking surface, generally located adjacent to a street, which provides pedestrian access.

"Sign" means any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising a property or the establishment of enterprise, including goods and services, upon which the signs are exhibited. This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by the law or by federal, state, county or city authority.

"Sign": all or part of any object, structure or device intended to be viewed by the public for advertisement or identification of a business, location, object, person, institution; organization, product, service or event by means including words, pictures, logos, symbols, colors, motion, illumination or projected images.

"Sign, Time, Date and Temperature": a sign that accurately displays the current time, date and/or temperature. Such a sign does not include copy or commercial messages.

"Sign, reader board" means any sign which can accommodate the manual change of wording, copying or text.

"Sign, electronic display" means a computer operated sign with capacity for text and or graphic information.

"Single-family dwelling means a dwelling that does not share a wall with any other building and is located on its own lot or parcel.

"Single-family dwelling, attached means two or more dwellings with common end-walls each on its own lot or parcel.

"Single-family detached zero-lot line house" means a single family detached house with one side yard setback equal to zero.

"Site" means a property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this code.

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

"Statutory vegetation line". that line described according to the Oregon Coordinate System and set forth in ORS 290.770 for the purpose of identifying lands subject to the department's authority to regulate improvements on the ocean shore. The line consists of a series of connected line segments.

"Steep slopes" means slopes of greater than thirty (30) percent.

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

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

"Story" means a portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above ground, the basement or cellar shall be considered a story.

"Street" means a public or private way that is created to provide ingress and egress for persons to one or more lots, parcels, areas or tracts of land (includes "road").

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

"Street furniture/furnishings" means bench-es, lighting, bicycle racks, drinking fountains, mail boxes, kiosks and similar pedestrian amenities located within a street right-of-way.

"Street stub" means a temporary street ending (i.e., where the street will be extended

through adjacent property in the future, as those properties develop). Not a permanent street-end or dead-end street.

"Street tree" means a tree planted in a planter strip or tree cut-out.

"Structure" means that which is built or constructed; an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.

"Structural alteration" means any change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams or girders or any structural changes in the roof.

"Subdivide land" means to divide an area, parcel, or tract of land into 1) four or more lots within a calendar year or 2) any division of land which creates a street.

"Subdivision" means the act of subdividing land or an area, or a tract of land subdivided as defined above.

"Support Structure" A wireless telecommunication tower, building, or other structure that supports an antenna used for wireless telecommunications.

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

"Tangent" means the meeting of a curve or surface in a single point.

"Tax lot" means a parcel, lot or other unit of land as created by the county assessor for the purpose of taxation. A tax lot may also be a lot or parcel when created at a property owners request for the purpose of land division consistent with applicable planning and zoning regulations in effect at that time.

"Telecommunications" as defined in the Federal Telecommunications Act of 1996, means the transmission between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.

"Temporary field or construction office" means a temporary office and temporary material storage used in connection with the property. This use may be permitted for a specified period of time in accordance with a permit issued by the building official.

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

"Topographical constraint" means where existing slopes prevent conformance with a code standard.

"Tower" A pole, telescoping mast, tripod or any other structure that provides support for or is an integral component of such devices as wireless antennas, wind power generation facilities and meteorological measuring and recording equipment.

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

"Trailer house" means a building or vehicle which was originally designed or presently constructed to be used as a human dwelling or lodging place and to be moveable from place to place over streets.

"Trailer park" means a plot of ground upon which one or more trailer houses occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodation.

"Transportation facilities" means the physical improvements used to move people and goods from one place to another (i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.).

"Transportation mode" means the method of transportation (e.g., automobile, bus, walking, bicycling, etc.).

"Triplex" means a building with three attached housing units on one lot or parcel.

"Use" means the purpose for which land, roadways or a structure is designed, arranged, or intended, or for which it is occupied or maintained, whether on a permanent or temporary basis.

"Utility facility" means those necessary appurtenances including related rights of way for the transmission of electric power, water, sewerage, telephone and other inline facilities needed for the operation of such facilities, such as pumping stations, power or communication substations, dams, reservoirs, and related power houses. Additionally, a utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal or similar sources.

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

"Vacation rental dwelling (VRD)" means an existing single-family detached dwelling which is rented, or is available for rent (whether advertised or not) for a period of less than one month to a family, group or individual. A VRD is considered to be a commercial use. (Ord. 1625, 9/18)

"Variance" means an administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this code.

"Violation" is an act of any person which is prohibited or prevented by the Bandon comprehensive plan, land development regulations or other state or county law, or the failure of any person to act as required by the comprehensive plan, land development regulations or other state or county law.

"Vision clearance area" means an area at a driveway, intersection, right-of-way, or public access in which the height of plantings and structures are limited to allow the maximum visibility upon approach. [Ref. 17.104.090 Vision Clearance]

"Wetland" means land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities. They are defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-85-010).

"Wireless communication equipment" includes cell towers, antennae, monopoles and related facilities used for signal transmission and receiving.

"Yard" means an open space on a lot, which is unobstructed from the ground upward by buildings or structures, except as otherwise provided for in this code.

"Yard, front" means a yard between side lot lines, measured horizontally at right angles from the front lot line, to the nearest point of a building or other structure.

"Yard, rear" means a yard between side lot lines, measured horizontally at right angles from the rear lot line, to the nearest point of a building or other structure.

"Yard, side" means a yard between the front and rear yards, measured horizontally at right angles from the rear lot line, to the nearest point of a building or other structure. (Ord. 1471 (part), 2001)

Chapter 17.04

INTRODUCTORY PROVISIONS

Sections:

- 17.04.010 Title.  
17.04.020 Purposes.  
17.04.040 Compliance with provisions required.

17.04.010 Title.

This title shall be known as the "zoning ordinance" of the city of Bandon.

17.04.020 Purposes.

The purposes of this title are:

- A. To implement the city's comprehensive plan;
- B. To comply with the provisions of state law and the Statewide Planning Goals.
- C. To encourage the efficient and appropriate use of land;
- D. To conserve and stabilize property values;
- E. To aid in the rendering of fire and police protection;
- F. To provide for adequate light and air;
- G. To avoid congestion;
- H. To encourage orderly growth of the city;
- I. To facilitate adequate provision of public facilities;
- J. To protect important natural resources, including open space, mineral and aggregate sources, energy sources, fish and wildlife resources, scenic views and sites, water areas, wetlands, and historical and archaeological sites;
- K. To protect and enhance the quality of air, land and water resources;
- L. To protect life and property from natural hazard;
- M. To provide adequate space for recreational opportunity;
- N. To promote the economic well-being of the city and to provide areas needed for economic development;
- O. To provide adequate space for housing;
- P. To reserve and protect areas needed for educational facilities;
- Q. To conserve energy;
- R. To provide for orderly and efficient growth of the city; and
- S. To promote the public health, safety, convenience and general welfare.

17.04.040 Compliance with provisions required.

- A. No structure or lot shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this title.
- B. The planning commission may rule that a use not specifically listed in the allowed uses of a zone shall be included among the allowed uses if the use is of the general type and is similar to the allowed uses. However, this does not authorize the inclusion in a zone where it is not listed of a use specifically in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

**Commented [DN1]:** Should we better define "structure"? Fences, walls, shrubs are not structures.

- C. Any new structure and addition to or replacement of existing structures are required to be inspected during the building process to assure compliance with all development regulations. Satisfactory completion of three field inspections is required to assure compliance. The first inspection will determine compliance with the approved site plan. The second inspection shall occur after completion of framing the structure. This inspection will determine compliance with approved floor plans and elevation drawings. The final inspection shall occur upon completion of the structure. This inspection will determine compliance with approved plans for drainage, utility service, off-street parking, any required street improvements, and authorized land use.

**Commented [DN2]:** If streamlining ZC process, this language needs to be updated.

The city shall provide the appropriate zoning compliance application and inspection forms, and may charge a fee for the application and inspections. It is the responsibility of the property owner/applicant to notify the city when it is time for an inspection. The city will provide the required inspection in a timely manner. Any noncompliance revealed by an inspection will be promptly reported to the property owner/applicant with instructions on steps necessary to achieve compliance. If the property owner/applicant does not take steps in a timely manner to assure compliance, the city may issue a stop work order. Use and/or occupancy of the structure shall not be permitted until the city has issued an occupancy permit signifying satisfactory completion of the development regulations compliance process.

- D. Time Limitation. A zoning compliance is valid for a period of one (1) year from the date of issuance. If the certificate of occupancy and/or letter of completion has not been issued within this period, the zoning compliance becomes null and void without further proceedings. The applicant may request one six (6) month extension prior to the expiration of the zoning compliance. The Planning Department may grant the extension for good cause as demonstrated by the applicant. Once a zoning compliance is determined to be null and void, an applicant must make a new application to the City, and is responsible for the payment of all applicable fees.

**Commented [DN3]:** Change to substantial commencement?

~~E. Section 17.040(D) shall be implemented immediately and shall apply to all zoning compliance active on the effective date of adoption of this section.~~

~~F.E.~~ Notwithstanding subsection (D) above, the City Council may grant zoning compliance extensions beyond 18 months for extraordinary circumstances such as medical injuries or emergencies beyond the control of the applicant.

## Chapter 17.08

### ESTABLISHMENT OF ZONES

#### Sections:

17.08.010 Classification of zones.

17.08.020 Zoning map.

#### 17.08.010 Classification of zones.

Classification of zones. For the purpose of this title, the city is divided into zones designated as follows:

Zone	Abbreviated
Residential 1	R-1
Residential 2	R-2
Controlled development 1	CD-1
Controlled development 2	CD-2
Controlled development residential 1	CD-R1
Controlled development residential 2	CD-R2
Old Town commercial	C-1
General commercial	C-2
Marine commercial	C-3
Light industrial	LI
Heavy industrial	HI
Public facilities and parks	PF
Water	W
Natural resource and open space	NR
Historic-cultural overlay	HC
Shoreland overlay	SO
Architectural review overlay	AR
Airport overlay	AO

#### 17.08.020 Zoning map.

- A. The location and boundaries of the zones designated in Section 17.08.010 are established as shown on the map entitled "Zoning Map of the City of Bandon, Oregon," dated with the effective date of the ordinance codified in this title and signed by the mayor and city recorder, and hereafter referred to as the "zoning map."
- B. The zoning map is made a part of this title.



## Chapter 17.12

### RESIDENTIAL1 (R-1) ZONE

#### Sections:

- 17.12.010 Purpose.
- 17.12.020 Permitted uses.
- 17.12.030 Conditional uses.
- 17.12.040 Limitations on uses.
- 17.12.050 Signs.
- 17.12.060 Lot size.
- 17.12.070 Yards.
- 17.12.080 Height of building.
- 17.12.090 Lot coverage.

#### 17.12.010 Purpose.

The purpose of the R-1 zone is to provide sufficient and desirable space in appropriate locations for residential uses and to protect these areas against congestion, nuisance and objectionable uses which reduce the quality and value of these areas for residential purposes.

#### 17.12.020 Permitted uses.

In the R-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling;
- B. Two-family dwelling;
- C. Manufactured dwellings as defined in Title 16
- D. Residential care home;
- E. Adult foster care home;
- F. Public utilities, including service structures. (Editorially amended, 2003.)
- G. Accessory Dwelling Unit

#### 17.12.030 Conditional uses.

In the R-1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Boarding or rooming house;
- B. Multiple-family dwelling;
- C. Church;
- D. Community club or building;
- E. Schools, including nursery or day care center;
- F. Park and recreation facility;
- G. Governmental structure or use;
- H. Parking to serve a location or use in a different zone where the parking area borders the different zone;
- I. Nursing, convalescent or retirement home;
- J. Medical, dental or related office;
- K. Medical, dental or related clinic;
- L. Hospital;
- M. Drugstores, provided that they are primarily for the sale of drugs;

- N. Residential facility;
- O. Planned unit development (P.U.D.).

17.12.040 Limitations on uses.  
See Section 17.12.030.

- A. All homes in the R-1 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least six of the following design features (at least 3 of these features shall be integrated into a face of the dwelling):
  - 1. Garage constructed with finish materials matching the residence;
  - 2. Hip Roof
  - 3. Roof with a pitch at or greater than 3/12;
  - ~~4.~~ ~~Hip Roof;~~
  - ~~5-4.~~ Gables;
  - ~~6-5.~~ Mullioned Windows
  - ~~7-6.~~ Eaves with a minimum projection of six inches;
  - ~~8-7.~~ Tile or architectural grade shingles;
  - ~~9-8.~~ Dormers;
  - ~~10-9.~~ Offsets on the building face or roof of at least twelve (12) inches;
  - ~~11-10.~~ Cupolas;
  - ~~12-11.~~ Covered porch - a minimum of 25 square feet;
  - ~~13-12.~~ Recessed entry area a minimum of three feet
  - ~~14-13.~~ Pillars or posts;
  - ~~15-14.~~ Bay windows;
  - ~~16-15.~~ Window shutters;
  - ~~17-16.~~ Clerestory windows;
  - ~~18-17.~~ Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.
- B. Vacation rental dwellings, bed and breakfasts, and bed and breakfast inns are specifically prohibited in the R-1 zone.

17.12.050 Signs.

See Chapter 17.90 Signs

17.12.060 Lot size.

In the R-1 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, lot area shall be five thousand four hundred (5,400) square feet; for a two-family dwelling, lot area shall be nine thousand (9,000) square feet; for a three-family dwelling, lot area shall be ten thousand five hundred (10,500) square feet; for additional units, lot area shall increase by one thousand (1,000) square feet per unit.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be at least ninety (90) feet.

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17.12.070 Yards.

Except as provided in Section 17.104.060, in the R-1 zone yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.
- B. A side yard shall be at least five feet, and the total of both side yards shall be at least thirteen (13) feet, with the exception of corner lots whose side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.

17.12.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.12.100 Exceptions to height limitations, or pursuant to 17.12.080.B (below), no portion of any building or structure shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.

1. Review Criteria

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

- a. The additional height shall not negatively impact the views from surrounding properties.
- b. The additional height shall not cut off sunlight onto surrounding properties.
- c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
- d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
- e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.

2. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.12.090 Lot coverage.

In the R-1 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.12.100 Exceptions to height limitations

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding (70) feet may be allowed as a Conditional Use.

## Chapter 17.16

### RESIDENTIAL 2 (R-2)

#### ZONE

##### Sections:

- 17.16.010 Purpose.
- 17.16.020 Permitted uses.
- 17.16.030 Conditional uses.
- 17.16.040 Limitations on uses.
- 17.16.050 Signs.
- 17.16.060 Lot size.
- 17.16.070 Yards.
- 17.16.080 Height of building.
- 17.16.090 Lot coverage.

##### 17.16.010 Purpose.

The purpose of the R-2 zone is to reserve and designate suitable areas to accommodate residential development including conventionally constructed single-family homes, manufactured homes, mobile homes and multifamily homes.

##### 17.16.020 Permitted uses.

In the R-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Mobile and manufactured homes as defined in Title 16;
- B. Single-family dwellings;
- C. Residential mobile and manufactured home parks that are in compliance with the state of Oregon building code's agency mobile or manufactured home park facility requirements;
- D. Two-family dwellings;
- E. Multiple-family dwelling;
- F. Residential care home;
- G. Adult foster care home;
- H. Public utilities, including service structures. (Editorially amended, 2003.)
- I. Accessory Dwelling Units

##### 17.16.030 Conditional uses.

In the R-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Boarding or rooming house;
- B. Church;
- C. Community club or building;
- D. Schools, including nursery or day care centers;
- E. Park and recreation facility;
- F. Governmental structure or use;
- G. Parking to serve a location or use in a different zone where the parking area borders the different zone;
- H. Nursing, convalescent or retirement home;
- I. Medical, dental or related offices or clinics;

- J. Hospital;
- K. Drugstores, provided that they are primarily for the sale of drugs;
- L. Residential facility;
- M. Planned unit development (P.U.D.).

17.16.040 Limitations on uses.

- A. All homes in the R-2 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least six of the following design features (at least 3 of these features shall be integrated into a face of the dwelling):
  - 1. Garage constructed with finish materials matching the residence;
  - 2. Hip Roof
  - 3. Roof with a pitch at or greater than 3/12;
  - ~~4. Hip Roof;~~
  - ~~5.4. Gables;~~
  - ~~6.5. Mullioned Windows~~
  - ~~7.6. Eaves with a minimum projection of six inches;~~
  - ~~8.7. Tile or architectural grade shingles;~~
  - ~~9.8. Dormers;~~
  - ~~10.9. Offsets on the building face or roof of at least twelve (12) inches;~~
  - ~~11.10. Cupolas;~~
  - ~~12.11. Covered porch - a minimum of 25 square feet;~~
  - ~~13.12. Recessed entry area a minimum of three feet~~
  - ~~14.13. Pillars or posts;~~
  - ~~15.14. Bay windows;~~
  - ~~16.15. Window shutters;~~
  - ~~17.16. Clerestory windows;~~
  - ~~18.17. Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.~~
- B. Vacation rental dwellings, bed and breakfasts, and bed and breakfast inns are specifically prohibited in the R-2 zone.

17.16.050 Signs.

See Chapter 17.90 Signs

17.16.060 Lot size.

In the R-2 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, lot area shall be five thousand four hundred (5,400) square feet; for a two-family dwelling, lot area shall be nine thousand (9,000) square feet; for a three-family dwelling, lot area shall be ten thousand five hundred (10,500) square feet; for additional units, lot area shall increase by one thousand (1,000) square feet per unit.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be at least ninety (90) feet.

17.16.070 Yards.

Except as provided in Section 17.104.060, in the R-2 zone, yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.
- B. A side yard shall be at least five feet, and the total of both side yards shall be at least thirteen (13) feet, with the exception of corner lots whose side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.

17.16.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.16.100 Exceptions to height limitations, or pursuant to 17.16.080.B (below), no portion of any building or structure shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
  - 1. Review Criteria
 

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

    - a. The additional height shall not negatively impact the views from surrounding properties.
    - b. The additional height shall not cut off sunlight onto surrounding properties.
    - c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
    - d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
    - e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.
  - 2. Review Procedures and Public Notices
 

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.16.090 Lot coverage.

In the R-2 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.16.100 Exceptions to height limitations

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use.



## Chapter 17.20

### CONTROLLED DEVELOPMENT 1 (CD-1) ZONE

#### Sections:

- 17.20.010 Purpose.
- 17.20.020 Permitted uses.
- 17.20.030 Conditional uses.
- 17.20.040 Limitations on use.
- 17.20.050 Signs.
- 17.20.060 Lot size.
- 17.20.070 Yards.
- 17.20.080 Lot coverage.
- 17.20.090 Height of structures.

#### 17.20.010 Purpose.

The purpose of the CD-1 zone is to recognize the scenic and unique qualities of Bandon's ocean front and nearby areas and to maintain these qualities as much as possible by carefully controlling the nature and scale of future development in this zone. It is intended that a mix of uses would be permitted, including residential, tourist commercial and recreational. Future development is to be controlled in order to enhance and protect the area's unique qualities.

#### 17.20.020 Permitted uses.

In the CD-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling, or manufactured dwelling, as defined in Title 16;
- B. State parks, including outright rehabilitation, replacement, minor betterment and improvements which do not result in increased visitors;
- C. Residential care home;
- D. Adult foster care home;
- E. Public utilities, including service structures.  
(Editorially amended, 2003.)
- F. Accessory Dwelling Units

#### 17.20.030 Conditional uses.

In the CD-1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (P.U.D.);
- C. Museums, tourist information centers, parks and recreational facilities;
- D. Gift, art, or handicraft store;
- E. Eating and drinking establishment;
- F. Motel, hotel;
- G. Bed and breakfast, bed and breakfast inn;
- H. Vacation rental dwellings;
- I. Residential uses incidental to other conditional or permitted uses;
- J. Governmental structure or use;
- K. Church.

17.20.040 Limitations on use.

- A. Drive-up uses are prohibited.
- B. All new uses or structures or major exterior alterations of existing structures in the CD-1 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the design and siting of new structure(s) and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).
  - 2. Siting of structures should minimize negative impact on the ocean views of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built in line with other existing structures and not extend farther out into those viewscapes.
  - 3. Metal-sided buildings are not permitted in the CD-1 zone.
- C. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
  - 1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description as defined by the city manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - d. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.

- D. No structures shall be located on identified foredunes. Breaching of foredunes shall only be allowed on a temporary basis in a dire emergency and shall be followed immediately by replenishment of sand, structural or binding material and vegetation, to the height of the surrounding existing dune. It shall be the responsibility of the developer or the party responsible to rebuild any breach or reestablish any vegetation that is removed, displaced or damaged on any bluff, foredune, or in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such rebuilding or reestablishment of vegetation.
- E. Minor modifications to existing structures such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other provisions of this title.
- F. All homes in the CD-1 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features (at least four of these features required must be integrated on a face of the dwelling):
1. Garage constructed with finish materials matching the residence;
  2. Hip Roof
  3. Roof with a pitch at or greater than 3/12;
  - ~~4. Hip Roof;~~
  - ~~5.4. Gables;~~
  - ~~6.5. Mullioned Windows~~
  - ~~7.6. Eaves with a minimum projection of six inches;~~
  - ~~8.7. Tile or architectural grade shingles;~~
  - ~~9.8. Dormers;~~
  - ~~10.9. Offsets on the building face or roof of at least twelve (12) inches;~~
  - ~~11.10. Cupolas;~~
  - ~~12.11. Covered porch - a minimum of 25 square feet;~~
  - ~~13.12. Recessed entry area a minimum of three feet~~
  - ~~14.13. Pillars or posts;~~
  - ~~15.14. Bay windows;~~
  - ~~16.15. Window shutters;~~
  - ~~17.16. Clerestory windows;~~
  - ~~18.17. Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.~~

17.20.050 Signs.

See Chapter 17.90 Signs

17.20.060 Lot size.

In the CD-1 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single- family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.

- C. Lot depth shall be at least ninety (90) feet.

17.20.070 Yards.

Except as provided in Section 17.104.060, yards in the CD-1 zone shall be as follows:

- A. The front yard shall be a minimum of twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.
- E. A rear yard abutting Beach Loop Drive shall be a minimum of fifteen (15) feet.

17.20.080 Lot coverage.

In the CD-1 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

Total impervious surface shall not exceed 65%.

17.20.090 Height of Buildings and Structures.

In order to maximize the ocean view potential of lots in the CD-1 zone:

- A. West of Beach Loop Drive or north of Seventh Street SW, except as otherwise permitted in 17.20.100 Exceptions to height limitations, no portion of any building or structure shall exceed a height of twenty-four (24) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. East of Beach Loop Drive and south of Seventh Street SW, except as otherwise permitted in 17.20.100 Exceptions to height limitations, or pursuant to 17.20.090.B.1 (below), no portion of any building or structure shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
  - 1. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
    - a. Review Criteria
      - In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.
      - (1) The additional height shall not negatively impact the views from surrounding properties.
      - (2) The additional height shall not cut off sunlight onto surrounding properties.

- (3) The additional height shall not negatively impact the aesthetic character of the neighborhood.
  - (4) All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
  - (5) For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.
- b. Review Procedures and Public Notices
- The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.20.100 Exceptions to height limitations

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. On the east side of Beach Loop Drive and south of Seventh Street, private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use. Antennas on the west side of Beach Loop and north of Seventh Street shall be subject to the existing height limitations.

## Chapter 17.24

### CONTROLLED DEVELOPMENT 2 (CD-2) ZONE

#### Sections:

- 17.24.010 Purpose.
- 17.24.020 Permitted uses.
- 17.24.030 Conditional uses.
- 17.24.040 Limitations on use.
- 17.24.050 Signs.
- 17.24.060 Lot size.
- 17.24.070 Yards.
- 17.24.080 Height of structures.
- 17.24.090 Lot coverage.

#### 17.24.010 Purpose.

The purpose of the CD-2 zone is to protect and enhance the unique character, natural resources and habitat characteristics of the Bandon Jetty and its bluff area, to provide for the development of a coastal village atmosphere, and to exclude those uses which would be inconsistent with the area's character.

#### 17.24.020 Permitted uses.

In the CD-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwellings, or manufactured dwellings as defined in Title 16;
- B. Residential care home;
- C. Adult foster care home;
- D. Public utilities, including service structures.  
(Editorially amended, 2003.)
- E. Accessory Dwelling Units

#### 17.24.030 Conditional uses.

In the CD-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Museums, interpretive centers, marine-oriented parks, marine-oriented outdoor recreation facilities;
- C. Gift, art, specialty, or handicraft shop;
- D. Eating and drinking establishments;
- E. Bed and breakfast, bed and breakfast inn;
- F. Vacation rental dwellings;
- G. Planned unit development, including resorts, except mobile home, trailer or recreational vehicle;
- H. Residential facility.

#### 17.24.040 Limitations on use.

- A. Drive-up uses are prohibited.
- B. All new uses or structures or major exterior alterations of existing structures in the CD-2 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the design and

siting of the structure(s) and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).

2. The use or structure must conform to this chapter.
  3. The exterior of all structures will utilize natural wood material and be of a rustic appearance in accordance with the purpose of the zone (Section 17.24.010).
  4. Metal-sided buildings are prohibited.
- C. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- D. No structures shall be located on identified foredunes. Breaching of foredunes shall only be allowed on a temporary basis in a dire emergency and shall be followed immediately by replenishment of sand, structural or binding material and vegetation, to the height of the surrounding existing dune. It shall be the responsibility of the developer or the party responsible to rebuild any breach or reestablish any vegetation that is removed, displaced or damaged on any bluff, foredune, or in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such rebuilding or reestablishment of vegetation.
- E. Minor modifications to existing structures, such as entryways, decks, porches, windows,

fences and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.

- F. Recreational vehicles, trailer houses, boats eighteen (18) feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater.
- G. All homes in the CD-2 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features (at least 4 of the design features must be integrated on a face of the dwelling):
  - 1. Garage constructed with finish materials matching the residence;
  - 2. Hip Roof
  - 3. Roof with a pitch at or greater than 3/12;
  - 4. ~~Hip Roof;~~
  - 5. ~~4.~~ Gables;
  - 6. ~~5.~~ Mullioned Windows
  - 7. ~~6.~~ Eaves with a minimum projection of six inches;
  - 8. ~~7.~~ Tile or architectural grade shingles;
  - 9. ~~8.~~ Dormers;
  - 10. ~~9.~~ Offsets on the building face or roof of at least twelve (12) inches;
  - 11. ~~10.~~ Cupolas;
  - 12. ~~11.~~ Covered porch - a minimum of 25 square feet;
  - 13. ~~12.~~ Recessed entry area a minimum of three feet
  - 14. ~~13.~~ Pillars or posts;
  - 15. ~~14.~~ Bay windows;
  - 16. ~~15.~~ Window shutters;
  - 17. ~~16.~~ Clerestory windows;
  - 18. ~~17.~~ Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

#### 17.24.050 Signs.

See Chapter 17.90 Signs

#### 17.24.060 Lot size.

In the CD-2 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be ninety (90) feet.

#### 17.24.070 Yards.

Except as provided in Section 17.104.060, in the CD-2 zone, yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.



- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet, except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.24.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.24.100 Exceptions to height limitations, or pursuant to 17.24.080.B (below), no portion of any building shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
  - 1. Review Criteria
 

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

    - a. The additional height shall not negatively impact the views from surrounding properties.
    - b. The additional height shall not cut off sunlight onto surrounding properties.
    - c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
    - d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
    - e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.
  - 2. Review Procedures and Public Notices
 

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.24.090 Lot coverage.

In the CD-2 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.24.100 Exceptions to building height limitations.

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.

- B. Private, non-commercial antennas or HAM radio antennas and towers up to twenty-eight (28) feet in height, may be allowed as a Conditional Use, provided that no commercial equipment is located on or near such antennas.

17.24.110 Fill

- A. Except as otherwise specifically permitted, no fill or other means shall be used to elevate any land within so as to remove it from the floodplain for purposes of development, construction, or improvement and/or to remove it from being subject to any regulations applicable to land within a floodplain.

## Chapter 17.28

### CONTROLLED DEVELOPMENT 3 (CD-3) ZONE

#### Sections:

- 17.28.010 Purpose.
- 17.28.020 Permitted uses.
- 17.28.030 Conditional uses.
- 17.28.040 Limitations on use.
- 17.28.050 Signs.
- 17.28.060 Lot size.
- 17.28.070 Yards.
- 17.28.080 Height of structures.
- 17.28.090 Lot coverage.

#### 17.28.010 Purpose.

The purpose of the CD-3 zone is to provide appropriate development opportunities in the entryway to the South Jetty area while protecting and enhancing its unique natural resources. This zone will serve as a transitional area between the commercial uses of the Old Town/Waterfront area to the predominately residential South Jetty neighborhood.

#### 17.28.020 Permitted uses.

In the CD-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling, or manufactured dwellings as defined in Title 16;
- B. Adult foster care home;
- C. Public utilities, including service structures.  
(Editorially amended, 2003.)
- D. Accessory Dwelling Units

#### 17.28.030 Conditional uses.

In the CD-3 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (PUD), including multifamily dwellings, but excluding individual mobile homes, trailers, recreational vehicles or parks thereof;
- C. Gift, art, specialty, or handicraft shop;
- D. Eating and drinking establishments;
- E. Bed and breakfast, bed and breakfast inn.

#### 17.28.040 Limitations on use.

- A. Drive-up uses are prohibited.
- B. All new uses or structures or major exterior alterations of existing structures in the CD-3 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the design and siting of the structure(s) and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see 17.120).

2. The use or structure must conform to this chapter.
  3. The design of all structures, and materials selected for their exterior surfaces, will utilize scale, color and materials that will enhance and promulgate the small town/village idiom currently found in the adjacent CD-2 and C-3 zones.
  4. Prefabricated or sheet metal-sided buildings are prohibited.
- C. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- D. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other provisions of this title.
- E. Development must acknowledge and accommodate the Port of Bandon's Riverwalk Master Plan.
- F. All homes in the CD-3 zone, including conventionally constructed and manufactured homes, shall utilize at least eight of the following design features (at least 4 of the design features required must be integrated on a face of the dwelling):
1. Garage constructed with finish materials matching the residence;
  2. Hip Roof
  3. Roof with a pitch at or greater than 3/12;

~~5.4.~~ ~~4- Hip Roof;~~

~~6.5.~~ Gables;

~~7.6.~~ Mullioned Windows

~~8.7.~~ Eaves with a minimum projection of six inches;

~~9.8.~~ Tile or architectural grade shingles;

~~10.9.~~ Dormers;

~~11.10.~~ Offsets on the building face or roof of at least twelve (12) inches;

~~12.11.~~ Cupolas;

~~13.12.~~ Covered porch - a minimum of 25 square feet;

~~14.13.~~ Recessed entry area a minimum of three feet

~~15.14.~~ Pillars or posts;

~~16.15.~~ Bay windows;

~~17.16.~~ Window shutters;

~~18.17.~~ Clerestory windows;

~~19.18.~~ Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.28.050 Signs.

See Chapter 17.90 Signs

17.28.060 Lot size.

In the CD-3 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet in area. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet in area. Lot requirements for multifamily dwellings shall be such that a maximum density of seventeen (17) units per net acre is not exceeded.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Minimum lot depth shall be ninety (90) feet.)

17.28.070 Yards.

Except as provided in Section 17.104.060, in the CD-3 zone, yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.28.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.28.100 Exceptions to height limitations, or pursuant to 17.28.080.B (below), no portion of any building shall exceed a

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height of twenty-eighty

- B. (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
  - C. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
    - 1. Review Criteria

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

      - a. The additional height shall not negatively impact the views from surrounding properties.
      - b. The additional height shall not cut off sunlight onto surrounding properties.
      - c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
      - d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
      - e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.
    - 2. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.
- 17.28.090 Lot coverage.  
In the CD-3 zone, buildings shall not occupy more than fifty (50) percent of the lot area.
- 17.28.100 Exceptions to building height limitations.
- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.

## Chapter 17.32

### CONTROLLED DEVELOPMENT RESIDENTIAL 1 (CD-R1) ZONE

#### Sections:

- 17.32.010 Purpose.
- 17.32.020 Permitted uses.
- 17.32.030 Conditional uses.
- 17.32.040 Limitations on use.
- 17.32.050 Signs.
- 17.32.060 Lot size.
- 17.32.070 Yards.
- 17.32.080 Lot coverage.
- 17.32.090 Height of structures.

#### 17.32.010 Purpose.

The purpose of the CD-R1 zone is to recognize the scenic and unique qualities of the view areas and nearby properties overlooking the Jetty area, the Coquille River and the Old Town, and to maintain these qualities as much as possible by carefully controlling the nature and scale of development in this zone. The vistas and residential character of this area shall be protected by carefully controlling development in the zone.

#### 17.32.020 Permitted uses.

In the CD-R1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwellings, or manufactured dwellings as defined in Title 16;
- B. Residential care home;
- C. Adult foster care home;
- D. Public utilities, including service structures.  
(Editorially amended, 2003.)
- E. Accessory Dwelling Units

#### 17.32.030 Conditional uses.

In the CD-R1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (P.U.D.);
- C. Governmental structure or use;
- D. Health care service facilities, including office;
- E. Nursing home;
- F. Residential facility.

#### 17.32.040 Limitations on use.

- A. All new uses or structures or exterior alterations of existing structures in the CD-R1 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the siting and design of the structure and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).

2. Siting of structures should minimize negative impacts on the views of the ocean or river of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built in line with other existing structures and not extend farther out into those view-scapes.
- B. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
  1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- C. It shall be the responsibility of the developer to reestablish any vegetation that is removed, displaced or damaged on or near any bluff area in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such reestablishment of vegetation.
- D. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences, and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.
- E. Metal-sided buildings are prohibited in the CD-R1 zone.
- F. All homes in the CD-R1 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features (at



least 4 of the design features required must be integrated on a face of the dwelling):

1. Garage or constructed with finish materials matching the residence;
2. Roof with a pitch at or greater than 3/12;
3. Hip Roof;
4. Gables;
5. Mullioned windows;
6. Eaves with a minimum projection of twelve inches;
7. Tile or architectural grade shingles;
8. Dormers;
9. Offsets in the building face of at least two feet;
10. Cupolas;
11. Covered porch - a minimum of 25 square feet;
12. Recessed entry area a minimum of three feet;
13. Pillars or posts - decorative in nature;
14. Bay windows;
15. Window shutters;
16. Clerestory windows;
17. Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.32.050 Signs.

See Chapter 17.90 Signs

17.32.060 Lot size.

In the CD-R1 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet.
- B. Lots shall have a minimum of forty (40) feet of street frontage. This frontage shall be physically accessible.
- C. Lot depth shall be at least ninety (90) feet.

17.32.070 Yards.

Except as provided in Section 17.104.060, yards in the CD-R1 zone shall be as follows:

- A. The front yard shall be a minimum of twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet, except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.32.080 Lot coverage.

In the CD-R1 zone buildings shall not occupy more than fifty (50) percent of the lot area.

17.32.090 Height of Buildings and Structures.

A. In order to maximize the ocean and river view potential of lots in the CD-R1 zone, except as otherwise permitted in 17.32.100 Exceptions to height limitations, or pursuant to 17.32.090.A.1 (below), no portion of any building shall exceed the following heights, measured as provided in 16.42.010 Definitions, "Height of building or structure:"

1. Twenty-eight (28) feet for Lots 5 thru 8 Block 5, and Lots 5 thru 8 Block 4, all in the Averill Addition, located on Map 28-15-25 AD.

a. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.

(1) Review Criteria

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

(2) The additional height shall not negatively impact the views from surrounding properties.

(3) The additional height shall not cut off sunlight onto surrounding properties.

(4) The additional height shall not negatively impact the aesthetic character of the neighborhood.

(5) All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.

(6) For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.

b. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120

B. Twenty-four (24) feet for all other lots.

## Chapter 17.36

### CONTROLLED DEVELOPMENT RESIDENTIAL 2 (CD-R2) ZONE

#### Sections:

- 17.36.010 Purpose.
- 17.36.020 Permitted uses.
- 17.36.030 Conditional uses.
- 17.36.040 Limitations on use.
- 17.36.050 Signs.
- 17.36.060 Lot size.
- 17.36.070 Yards.
- 17.36.080 Lot coverage.
- 17.36.090 Height of structures.

#### 17.36.010 Purpose.

The purpose of the CD-R2 zone is to recognize the scenic and unique qualities of the view areas overlooking the ocean and the Coquille River and the adjacent properties, and to maintain these qualities as much as possible by carefully controlling the nature and scale of future development in this zone. The vistas and residential character of this area shall be protected by carefully controlling development in the zone.

#### 17.36.020 Permitted uses.

In the CD-R2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling, or manufactured dwellings as defined in Title 16;
- B. Residential care home;
- C. Public utilities, including service structures.
- D. Accessory Dwelling Units

#### 17.36.030 Conditional uses.

In the CD-R2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (P.U.D.);
- C. Governmental structure or use.

#### 17.36.040 Limitations on use.

- A. All new uses or structures or exterior alterations of existing structures in the CD-R2 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the siting and design of the structure and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).
  - 2. Siting of structures should minimize negative impacts on the views of the ocean or river of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built in line with other existing structures and not extend farther out into those view-scapes.

- B. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommend appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- C. It shall be the responsibility of the developer to reestablish any vegetation that is removed, displaced or damaged on or near any bluff area in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such reestablishment of vegetation.
- D. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences, and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other provisions of this title.
- E. Metal-sided buildings are prohibited in the CD-R2 zone.
- F. All homes in the CD-R2 zone, including but not limited to conventionally constructed homes and manufactured homes shall utilize at least eight of the following design features (at least 4 design features required must be integrated on a face of the dwelling)
1. Garage or constructed with finish materials matching the residence;

2. Roof with a pitch at or greater than 3/12;
3. Hip Roof;
4. Gables;
5. Mullioned windows;
6. Eaves with a minimum projection of twelve inches;
7. Tile or architectural grade shingles;
8. Dormers;
9. Offsets on the building face of at least two feet;
10. Cupolas
11. Covered porch - a minimum of 25 square feet;
12. Recessed entry area a minimum of three feet;
13. Pillars or posts - decorative in nature;
14. Bay windows;
15. Window shutters;
16. Clerestory windows;
17. Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.36.050 Signs.

See Chapter 17.90 Signs

17.36.060 Lot size.

In the CD-R2 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet.
- B. Lots shall have a minimum of forty (40) feet of street frontage. This frontage shall be physically accessible.
- C. Lot depth shall be at least ninety (90) feet.

17.36.070 Yards.

Except as provided in Section 17.104.060, yards in the CD-R2 zone shall be as follows:

- A. The front yard shall be a minimum of twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.36.080 Lot coverage.

In the CD-R2 zone buildings shall not occupy more than fifty (50) percent of the lot area.

17.36.090 Height of Buildings and Structures.

In order to maximize the ocean and river view potential of lots in the CD-R2 zone, except as otherwise permitted in 17.36.100 Exceptions to height limitations, no portion of any building shall exceed the twenty-four (24) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."

17.36.100 Exceptions to height limitations.

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use.

## Chapter 17.40

### OLD TOWN COMMERCIAL (C-1) ZONE

#### Sections:

- 17.40.010 Purpose.
- 17.40.020 Permitted uses.
- 17.40.030 Conditional uses.
- 17.40.040 Limitations on uses.
- 17.40.050 Signs.
- 17.40.060 Lot size.
- 17.40.070 Yards.
- 17.40.080 Height of structures.
- 17.40.090 Lot coverage.
- 17.40.100 Outside sales area.

#### 17.40.010 Purpose.

The purpose of the C-1 zone is to provide space and protection for businesses and to promote a mix of businesses that will serve residents and visitors to the area intended to exclude those uses which would detract from its appeal as an aesthetically pleasing commercial district for residents and visitors.

#### 17.40.020 Permitted uses.

In the C-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Museums, tourist information centers, and public parks;
- B. Gift, art and handicraft store;
- C. Eating and drinking establishments;
- D. Publicly owned facilities and services, and public utilities;
- E. Gourmet or specialty foods or wine shop;
- F. Clothing store;
- G. Business, governmental or professional offices;
- H. Barber shop or beauty shop;
- I. Apartments, provided that they are an accessory use incidental to a listed permitted or conditional use in the building;
- J. Hardware store, florist shop, or specialty store.

#### 17.40.030 Conditional uses.

In the C-1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Self-service laundry;
- B. Recreational facilities, including concert halls, theaters and convention centers;
- C. Hotel, motel;
- D. Bed and breakfast or bed and breakfast inn.

#### 17.40.040 Limitations on uses.

In the C-1 zone, the following conditions and limitations shall apply:

- A. Development activity in the Old Town area is subject to the architectural review standards as provided in Section 17.84.010.
- B. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for

additional width.

- C. The use shall not be objectionable because of odor, dust, fumes, smoke, noise, glare, or the effects of vehicular traffic.
- D. Drive-up uses are prohibited.

17.40.050 Signs.

See Chapter 17.90 Signs

17.40.060 Lot size.

In the C-1 zone, lot size shall be as necessary to comply with Section 17.40.090.

17.40.070 Yards.

Except as provided in Section 17.104.060, in the C-1 zone minimum yard size shall be as follows:

- A. In the event of a common property line, a side yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the building exceeds twenty-eight (28) feet.
- B. The rear yard shall meet the same requirements as a side yard.

17.40.080 Height of structures.

In the C-1 zone, the permitted height limit shall be twenty-eight (28) feet, except that heights above twenty-eight (28) feet but not exceeding thirty-five (35) feet shall require a conditional use permit.

17.40.090 Lot coverage.

In the C-1 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.40.100 Outside sales area.

In the C-1 zone, any outside sales area shall be drained and surfaced with crushed rock or paved.



## Chapter 17.44

### GENERAL COMMERCIAL (C-2) ZONE

#### Sections:

- 17.44.010 Purpose.
- 17.44.020 Permitted uses.
- 17.44.030 Conditional uses.
- 17.44.040 Limitations on uses.
- 17.44.050 Signs.
- 17.44.060 Lot size.
- 17.44.070 Yards.
- 17.44.080 Height of building.
- 17.44.090 Lot coverage.
- 17.44.100 Outside sales area.

#### 17.44.010 Purpose.

The purpose of the C-2 zone is to provide sufficient and appropriate space for the general shopping, business and commercial needs of the city and surrounding areas, and to encourage the development of such space in a pleasant and desirable manner. These areas are intended to encourage the continuing quality of business retail services and to protect these uses from uses which would break up such continuity.

#### 17.44.020 Permitted uses.

In the C-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store;
- B. Business, governmental or professional office, including real estate;
- C. Personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service), and dry-cleaning shop;
- D. Manufacturing, processing, repairing or storage auxiliary to or incidental to a commercial permitted use, but not occupying more than fifty (50) percent of the floor space of the establishment;
- E. Mortuary or funeral home;
- F. Eating and drinking establishments;
- G. Specialty or art shop or store;
- H. Grocery or food store;
- I. Automobile repair and sales and service;
- J. Sales, service or repair of machinery, trailers, mobile home, farm equipment, marine equipment;
- K. Building materials sales or services;
- L. Hotel or motel;
- M. Plumbing, electrical, paint or carpentry storage, sales or contracting;
- N. Indoor recreational establishments;
- O. Medical, dental or related office;
- P. Medical, dental or related clinic;
- Q. Public utilities, including service structures.

17.44.30 Conditional uses.

In the C-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Drive-up uses, in accordance with Section 17.92;
- B. Museums, tourist information centers, parks and recreational facilities;
- C. Food or dairy products processing;
- D. Single-family, two-family, or multiple housing, including mobile or manufactured home;
- E. Recreational vehicle park, overnight trailer parking;
- F. Public utility or services building;
- G. Residential care home or facility;
- H. Governmental buildings or uses;
- I. Churches;
- J. Any fuel dispensing or fuel storage facilities.
- K. Medical / Recreational Marijuana Facilities, subject to the following requirements:
  - A. Must acquire a conditional use permit and provide proof of State licensing. Permit must have a description of location, nature of the operation, accounting and inventory control system used, and names and addresses of individuals with financial interest in the dispensary.
  - B. Must meet all City land-use, building, and fire laws.
  - C. May not produce any extracts, oils, resins, or other derivatives on-site. Marijuana and marijuana-infused products cannot be used on-site.
  - D. Must utilize air filtration and ventilation systems to confine objectionable odors.
  - E. Anyone convicted of the manufacture or delivery of a controlled substance once or more in the previous 5 years or twice in a lifetime cannot be an operator or employee or have a financial interest in the dispensary.
  - F. Minimum parking space requirements will be one space per six hundred (600) square feet of floor area plus one space per two employees.
  - G. Hours of Operation any eight hours between the hours of 8 A.M. and 8 P.M.
  - H. No display promoting or showing any product that can be seen by the public or adjacent public right of way
  - I. Adhering to all requirements of Bandon Code
  - J. The business must be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle.
  - K. Outdoor marijuana production, cultivation, and storage of merchandise, raw materials, or other material associated with the business are prohibited.
  - L. As with any state law governing the location of medical/recreational marijuana facilities in regard to school property no recreational or medical marijuana facility may be located within 1500 linear feet of any boundary line of the following described property:

28-14-30AB, Tax Lot(s): 2300  
28-14-30AC, Tax Lot(s): 11800  
28-15-25DA, Tax Lot(s): 5800 and 6000  
28-15-25DB, Tax Lot(s): 93000  
28-15-25DC, Tax Lot(s): 9100  
28-15-25DD, Tax Lot(s): 300, 600, 1500, 3200, 3300, 4001, 4100, 4600, 4801, and 6300.

- M. In addition, no medical/recreational marijuana facility may be located within 1500 linear feet of any boundary line of 28-14-30CA, Tax Lot(s) 6500, which currently operates as a Head Start facility.

17.44.040 Limitations on uses.

In the C-2 zone, the following conditions and limitations shall apply:

- A. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.
- B. The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- C. Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 17.92.

17.44.050 Signs.

See Chapter 17.90 Signs

17.44.060 Lot size.

In the C-2 zone, lot size shall have no requirements.

17.44.070 Yards.

Except as provided in Section 17.104.060, in the C-2 zone minimum yards shall be as follows:

- A. In the event of a common property line, a side yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.
- B. The rear yard shall meet the same requirements as a side yard.

17.44.080 Height of building.

In the C-2 zone, no building shall exceed a height of forty-five (45) feet.

17.44.090 Lot coverage.

In the C-2 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.44.100 Outside sales area.

In the C-2 zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

17.44.110 Exceptions to height limitations.

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communications equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use.

## Chapter 17.48

### MARINE COMMERCIAL (C-3) ZONE

#### Sections:

17.48.010	Purpose.
17.48.020	Permitted uses.
17.48.030	Conditional uses.
17.48.040	Limitations on uses.
17.48.050	Signs.
17.48.060	Lot size.
17.48.070	Yards.
17.48.080	Height of building.
17.48.090	Lot coverage.
17.48.100	Outside sales area.

#### 17.48.010 Purpose.

The purpose of the C-3 zone is to provide areas suitable for uses which depend upon, or are benefitted by, a waterfront location, and to retain adequate areas for these uses.

#### 17.48.020 Permitted uses.

In the C-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Boat basins;
- B. Piers, docks and bulkheads;
- C. Seafood processing, storage and sales;
- D. Marinas and boat services;
- E. Boat storage, manufacturing, maintenance, repair and moorage;
- F. Fishing supply sales, manufacturing and storage;
- G. Dredging, filling and channel maintenance;
- H. Governmental services and offices which relate to marine activities;
- I. Aquaculture and accessory facilities;
- J. Public utilities, including service structures.

#### 17.48.030 Conditional uses.

In the C-3 zone, the following uses and their accessory uses may be allowed when in accordance with Chapter 17.92 and when it is found that the proposed use would be benefitted by a waterfront location:

- A. Eating and drinking establishments;
- B. Gift, art, craft, novelty or specialty shops, including the manufacture of such products;
- C. Governmental building or use;
- D. Public utility or service building;
- E. Park or recreation facility;
- F. Business or professional offices;
- G. Single-family dwellings and other dwelling units intended for single-family occupancy, provided they are in a non-ESWD (especially water-dependent) area;
- H. Vacation rental dwelling.

#### 17.48.040 Limitations on uses.

In the C-3 zone, the following conditions and limitations shall apply:

- I. The dedication of additional street width may be required when an officially adopted

street plan or the nature of the proposed development indicates the need for additional width.

- J. The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- K. Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 17.92.
- L. Drive-up uses are prohibited.
- M. The planning commission may establish a maximum percentage of a land parcel or a building devoted to one or more conditional uses to ensure that the purpose of this zone is achieved.

17.48.050 Signs.

See Chapter 17.90 Signs

17.48.060 Lot size.

In the C-3 zone, lot size shall have no requirements.

17.48.070 Yards.

Except as provided in Section 17.104.060, in the C-3 zone minimum yards shall be as follows:

- A. In the event of a common property line, a side yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.
- B. The rear yard shall meet the same requirements as a side yard.
- C. On the High Dock, structures exceeding five (5) feet in height shall be separated horizontally from each other by a minimum of fifteen (15) feet.

17.48.080 Height of building.

In the C-3 zone, no building containing a permitted use shall exceed a height of twenty-eight (28) feet, and no building containing a conditional use shall exceed a height of twenty (20) feet.

17.48.090 Lot coverage.

In the C-3 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.48.100 Outside sales area.

In the C-3 zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

## Chapter 17.52

### LIGHT INDUSTRIAL ZONE (LI)

#### Sections:

17.52.010	Purpose.
17.52.020	Permitted uses.
17.52.030	Conditional uses.
17.52.040	Limitations on uses.
17.52.050	Signs.
17.52.060	Lot size.
17.52.070	Yards.
17.52.080	Height of structures.
17.52.090	Lot coverage.
17.52.100	Outside sales area.
17.52.110	Commercial design standards.

#### 17.52.010 Purpose.

The purpose of the LI zone is to provide space for industrial uses with little or slight nuisance effect to adjacent land uses.

#### 17.52.020 Permitted uses.

- A. For all LI - Light Industrial zoned property within the area bounded on the north by 2<sup>nd</sup> Street SE/Highway 101, on the south by 6<sup>th</sup> Street SE, on the west by Elmira Avenue SE, on the east by Grand Avenue SE, or the extended rights-of-way of those streets, no land uses are "Permitted uses." Within this area, all uses listed as "Permitted uses" or "Conditional uses" in the LI zone shall be "Conditional uses." Such uses, individually or in combination, and their accessory uses, may be allowed in accordance with Chapter 17.92 and the provisions of this ordinance.
- B. In the LI zone, *except as provided in 17.52.020.A above*, the following uses are permitted outright provided all other requirements of this title are met:
1. Manufacturing, processing and fabricating which is conducted solely in enclosed buildings which will not cause or result in:
    - a. Dissemination of noise, vibration, odor, dust, smoke, gas or fumes beyond the boundaries of the building,
    - b. Hazard of fire or explosion, or other physical hazard,
    - c. Radiation or interference with radio or television reception in adjacent areas,
    - d. Excessive traffic either in number or size of vehicles through any adjacent residential zone;
  2. Dairy product or cranberry processing or storage;
  3. Warehousing;
  4. Public utilities, including service structures.
  5. Self-storage units and facilities.

#### 17.52.030 Conditional uses.

In the LI zone, the following uses individually or in combination, and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this ordinance:

- A. Single- or two-family dwelling, including mobile or manufactured homes;
- B. Public utility or service building;
- C. Government building or use;
- D. Other manufacturing or processing activities;
- E. Retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store;
- F. Business or professional office, including real estate.
- G. Personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service) or dry-cleaning shop;
- H. Mortuary or funeral home;
- I. Eating and drinking establishment;
- J. Drive-up uses, in accordance with Section 17.92.090(I);
- K. Specialty or art shop or store;
- L. Grocery store;
- M. Automobile services, repair and sale;
- N. Sales, service or repair of machinery, trailers, mobile and manufactured homes, farm and marine equipment;
- O. Building materials sales and services;
- P. Hotels and motels;
- Q. Plumbing, electrical, painting or carpentry storage, sales or contracting;
- R. Indoor recreational establishment. (Ord. 1336 § 4.620, 1994)
- S. "Live/Work/Sell Residential" as defined in Section 16.42.010 - DEFINITIONS
- T. Museums, galleries, and parks and recreation facilities.
- U. A "Residential Care Facility" shall be a Conditional Use on the property described as the southern 42 feet of lots 1, 2 and 3; all of lots 4,5,6,7 and 8; and the portions of all vacated portions of alleys and rights-of-way therein; located in Block 8 of the Woolen Mill Addition to Bandon.

17.52.040 Limitations on uses.

- A. For all new uses or structures or exterior alterations of existing structures in the LI zone the developer shall be required to gain approval from the planning commission during a land use review in public session regarding all requirements of this title;
- B. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.

17.52.050 Signs.

See Chapter 17.90 Signs

17.52.060 Lot size.

In the LI zone, lot size shall have no requirements.

17.52.070 Yards.

In an LI zone, a side or rear yard abutting a residential zone shall be at least twenty (20) feet.

17.52.080 Height of structures.

- A. Except as otherwise provided in the LI zone, no structure within one hundred fifty (150) feet of a residential zone shall exceed a height of forth-five (45) feet. (Editorially corrected from Ord. 1313)



- B. For all LI - Light Industrial zoned property within the area bounded on the north by 2<sup>nd</sup> Street SE/Highway 101, on the south by 6<sup>th</sup> Street SE, on the west by Elmira Avenue SE, on the east by Grand Avenue SE, or the extended rights-of-way of those streets, structures shall be no more than twenty-eight (28) feet in height, except that with the specific approval of the Planning Commission, structures up to thirty-five (35) feet in height may be allowed.

17.52.090 Lot coverage.

In the LI zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.52.100 Outside sales area.

In the LI zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

17.52.110 Commercial Design Standards

See Section 17.94.020.B.

## Chapter 17.56

### HEAVY INDUSTRIAL (HI) ZONE

#### Sections:

- 17.56.010 Purpose.
- 17.56.020 Permitted uses.
- 17.56.030 Conditional uses.
- 17.56.040 Limitations on uses.
- 17.56.050 Signs.
- 17.56.060 Lot size.
- 17.56.070 Yards.
- 17.56.080 Height of building.
- 17.56.090 Lot coverage.
- 17.56.100 Outside sales area.

#### 17.56.010 Purpose.

The purpose of the HI zone is to provide space for industry to ensure the future well-being of the city.

#### 17.56.020 Permitted uses.

In the HI zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Public utilities, including service structures.

#### 17.56.030 Conditional uses.

In the HI zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Manufacturing, repairing, compounding, fabrication, processing, packing and storage;
- B. Governmental building or use;
- C. Sales of products manufactured on site.

#### 17.56.040 Limitations on uses.

The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.

#### 17.56.050 Signs.

See Chapter 17.90 Signs

#### 17.56.060 Lot size.

In the HI zone, lot size shall have no requirements.

#### 17.56.070 Yards.

In the HI zone a side or rear yard abutting a residential zone shall be at least twenty (20) feet.

#### 17.56.080 Height of building.

In the HI zone, no structure within one hundred fifty (150) feet of a residential zone shall exceed a height of forty-five (45) feet.

17.56.090 Lot coverage.

In the HI zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.56.100 Outside sales area.

In the HI zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

## Chapter 17.60

### PUBLIC FACILITIES AND PARKS (PF) ZONE

#### Sections:

- 17.60.010 Purpose.
- 17.60.020 Permitted uses.
- 17.60.030 Conditional uses.
- 17.60.040 Conditional use permit fee.

#### 17.60.010 Purpose.

The purpose of the PF zone is to identify and reserve publicly owned areas for the development of needed public facilities and services.

#### 17.60.020 Permitted uses.

No land uses are permitted outright in the PF zone.

#### 17.60.030 Conditional uses.

In the PF zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Schools, including nursery or day care centers;
- B. Parks or recreational facilities;
- C. Public utility or service buildings;
- D. Public parking;
- E. Government structures, offices or uses;
- F. Community center;
- G. Cemeteries;
- H. Other uses conducted for public purposes.
- I. Small-scale commercial uses that occur on an on-going basis (at least 3 times per week), provided they are incidental to the primary use, are undertaken on property owned by a public agency, and are specifically authorized by the public agency owning the property. Occasional uses, events, and activities are allowed subject to administrative review.

#### 17.60.040 Conditional use permit fee.

A public agency applying for a conditional use permit in the public facilities and parks zone is not subject to the conditional use permit fee.

## Chapter 17.64

### WATER (W) ZONE

#### Sections:

17.64.010	Purpose.
17.64.020	Natural management units.
17.64.030	Permitted uses in natural management units.
17.64.040	Conditional uses in natural management units.
17.64.050	Conservation management units.
17.64.060	Permitted uses in conservation management units.
17.64.070	Conditional uses in conservation management units.
17.64.080	Development management units.
17.64.090	Permitted uses in development management units.
17.64.100	Conditional uses in development management units.
17.64.110	Estuarine fill and removal.
17.64.120	Agency notification.

#### 17.64.010 Purpose.

- A. The purpose of the water zone is to identify estuarine areas of the city and to provide for uses which are suitable and necessary for such areas, consistent with the Bandon comprehensive plan.
- B. The water zone is composed of estuarine management units that have been assigned one of three designations according to their biological importance to the estuary. These management unit designations correspond to the estuarine management unit designations in the Bandon comprehensive plan.
- C. The three management unit designations are natural (N), conservation (C) and development (D). Uses and activities therein must conform to the overall purpose of the management units where they are proposed:
  1. In natural (N) areas, to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research and educational needs;
  2. In conservation (C) areas, to manage these areas for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration; and
  3. In development (D) areas, to provide for navigation and other identified needs for public, commercial, industrial water-dependent uses, consistent with the level of development or alteration allowed by that management unit.

#### 17.64.020 Natural management units.

In the Coquille River Estuary, areas shall be designated as natural management units to assure the protection of significant fish and wildlife habitats, or continued biological productivity within the estuary, and of scientific, research and educational needs. These shall be managed to preserve the natural resources in recognition of dynamic, natural, geological and evolutionary processes. Such areas shall include, at a minimum, all major tracts of salt marsh, tide flats, and sea grass and algae beds.

#### 17.64.030 Permitted uses in natural management units.

In the N management units, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Undeveloped low-intensity, water-dependent recreation;

- B. Research and educational observations;
- C. Navigation aids, such as beacons and buoys;
- D. Protection of habitat, nutrient, fish, wildlife and aesthetic resources;
- E. Passive restoration measures;
- F. Dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures;
- G. Riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values;
- H. Public utilities, including service structures; and
- I. Bridge crossings.

17.64.040 Conditional uses in natural management units.

- A. A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.
- B. Where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed as conditional uses as per Chapter 17.92:
  - 1. Aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks;
  - 2. Communication facilities;
  - 1. Active restoration of fish and wildlife habitat or water quality and estuarine enhancement;
  - 2. Boat ramps for public use where no dredging or fill for navigational access is needed; and
  - 5. Pipelines, cables and utility crossing, including incidental dredging necessary for their installation;
  - 6. Installation of tidegates in existing functional dikes;
  - 7. Temporary alterations;
  - 8. Bridge crossing support structures and dredging necessary for their installation.

17.64.050 Conservation management units.

In the Coquille River estuary, areas shall be designated as conservation management units for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aquaculture. They shall include tracts of significant habitat smaller or of less biological importance than those in the natural management units, and recreational or commercial oyster and clam beds not included in the natural management units. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of natural or development units shall also be included in this classification.

17.64.060 Permitted uses in conservation management units.

Permitted uses in conservation management units shall be all uses listed in natural management units above except temporary alterations.

17.64.070 Conditional uses in conservation management units

- A. Where consistent with the resource capabilities of the area and the purposes of this management unit, the following uses may be allowed as conditional uses, per Chapter 17.92, and a use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity, and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biological productivity, recreational and aesthetic values and aquaculture.
- B. The following are conditional uses in conservation management units:
1. High-intensity water-dependent recreation, including boat ramps, marinas and new dredging for boat ramps and marinas;
  2. Minor navigational improvements;
  3. Mining and mineral extraction, including dredging necessary for mineral extraction;
  4. Other water-dependent uses requiring occupation of water surface area by means other than dredge or fill;
  5. Aquaculture requiring dredge or fill or other alteration of the estuary;
  6. Active restoration for purposes other than those listed in subsection (B)(4) of this section;
  7. Temporary alterations.

17.64.080 Development management units.

In the Coquille River estuary, areas shall be designated as development management units to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development of alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, sub-tidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alteration of the estuary not included in natural or conservation management units.

17.64.090 Permitted uses in development management units.

- A. Permitted uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses.
- B. As appropriate, the following uses shall also be permissible in development management units:
1. Dredge or fill, as allowed in conservation or natural management units;
  2. Navigation and water-dependent commercial enterprises and activities;
  1. Water transport channels where dredging may be necessary.
  4. Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units;
  5. Water storage areas where needed for products used in or resulting from industry, commerce and recreation;
  6. Marinas.

17.64.100 Conditional uses in development management units.

- A. Where consistent with the purposes of this management unit, Chapter 17.92, and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and non-dependent, non-related

uses not requiring dredge or fill; mining and mineral extraction; and activities identified in natural or conservation management units shall also be appropriate.

- B. In designating areas for these uses, the city shall consider the potential for using upland sites to reduce or limit the commitment of the estuarine surface area for surface uses..

17.64.110 Estuarine fill and removal.

Dredge, fill or other reduction or degradation of estuarine values shall be permitted only if such activities are allowed in the respective management unit and:

- A. If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this goal; and
- B. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
- C. If no feasible alternative upland locations exist; and
- D. If adverse impacts are minimized.

This requirement shall be implemented by the preparation of findings by the city documenting that such proposed actions are consistent with the comprehensive plan and with the criteria listed above. This requirement recognizes that Goal #16 limits dredge, fill and other estuarine degradation in order to protect the integrity of the estuary.

17.64.120 Agency notification.

For conditional uses within the water zone, the following agencies shall be notified by mail according to the notice provisions as stated in Section 17.120.090:

- A. State agencies:
  - 1. Division of State Lands,
  - 2. Department of Fish and Wildlife,
  - 3. Department of Environmental Quality;
- B. Federal agencies:
  - 1. Army Corps of Engineers,
  - 2. National Marine Fisheries Service,
  - 3. U.S. Fish and Wildlife Service;
- C. Other notification (where applicable):
  - 1. State Water Resource Department (uses including appropriation for water only),
  - 2. State Department of Geology and Mineral Industries (mining and mineral extraction only),
  - 3. State Department of Energy (generating and other energy facilities only),
  - 4. Department of Economic Development (docks, industrial and port facilities and marinas, only).

17.64.130 Signage.

See Chapter 17.90 Signs



## Chapter 17.68

### NATURAL RESOURCE AND OPEN SPACE (NR) ZONE

#### Sections:

- 17.68.010 Purpose.
- 17.68.020 Permitted uses.
- 17.68.030 Conditional uses.

#### 17.68.010 Purpose.

The purpose of the NR zone is to protect important natural resources, such as open space areas, significant fish and wildlife habitats, outstanding scenic views and sites, ecological and scientific natural areas, wetlands and watersheds, historical areas and structures, and areas necessary to maintain or protect the quality of air, land and water resources from inappropriate or incompatible development. In an NR zone uses shall be limited to those uses that are consistent with protection of natural values.

#### 17.68.020 Permitted uses.

In the NR zone the following uses are permitted outright:

- A. Wildlife and marine life sanctuaries;
- B. Public parks;
- C. Low-intensity recreational uses which do not include the use of structures;
- D. Harvesting wild crops.

#### 17.68.030 Conditional uses.

In the NR zone, the following uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Public utilities and facilities, except that all utilities shall be underground;
- B. Structures for recreational activity or public use, except that such structures shall be built and located so as to minimize their impact on visual and resource values of the area;
- C. Historical structures and rehabilitation of such structures;
- D. Aquaculture and accessory facilities;
- E. Propagation and selective harvesting of forest products;
- F. Grazing;
- G. Nonstructural foredune maintenance, repair or restoration, not including foredune grading.

## Chapter 17.72

### HISTORIC - CULTURAL OVERLAY (HC) ZONE

#### Sections:

- 17.72.010 Purpose.
- 17.72.020 Permitted and conditional uses.
- 17.72.030 List of historic sites.
- 17.72.040 Review by planning commission.
- 17.72.050 HC overlay zone district amendments.

#### 17.72.010 Purpose.

The purpose of the HC zone is to promote the historic, educational, cultural, economic and general welfare of the public through preservation, restoration and protection of buildings, structures and appurtenances, sites, places and elements of historic value to the city.

#### 17.72.020 Permitted and conditional uses.

Within the HC overlay zone all uses permitted outright or conditionally within the underlying general use zone shall be permitted subject to the provisions of that use zone. The provisions of the HC zone shall be applied in addition to those requirements of the underlying zone. None of the provisions of the HC zone are meant to reduce or replace the provisions of the applicable underlying general use zone.

#### 17.72.030 List of historic sites.

The following structures/lots shall be subject to the provisions of the HC overlay zone:

- A. Breuer Building, 460 1st Street SW (ca.1894);
- B. Kronenberg (John) Home, 95 Harlem Avenue SE
- C. Bandon Masonic Lodge Building, 108 2nd Street SE (formerly 1st National Bank, ca. 1915);
- D. Bandon Lighthouse, North Jetty (Bullards Beach State Park);
- E. Old Coast Guard Building, 390 1st Street SW;
- F. Coquille Indian Tribe cultural resource lands as identified in the comprehensive plan.  
(Deleted: Moore Mill Truck Shop, 67 Elmira SE, Bandon Waterfront (formerly the Nestles Milk Condensing Plant, ca. 1920) **Ord. 1452 1-02-01**)

#### 17.72.040 Review by planning commission.

Whenever application for demolition, renovation, or change of use of any site, structure or object which has been determined to have historic significance is proposed or planned, and which would affect the exterior of the site or structure, then before any permit shall be issued therefor, the following procedures shall be taken:

The applicant for a permit shall present to the planning commission information concerning the proposed action and the planning commission shall make the findings and recommendations which shall include the following:

- A. Whether the site, structure or object has maintained the required characteristics for historical significance;
- B. Whether it has deteriorated or changed so as to become hazardous to the public health, safety or welfare;
- C. Whether historical significance will be substantially affected by the proposed change;
- D. Whether the financial or other hardship to the owner in preserving the historic significance is outweighed by the public interest in preserving historic values;
- E. Whether there are alternative ways in which historic values may be preserved if the

proposed action is carried out;

- F. Whether the proposed action or change will have any substantial economic, social, environmental or energy consequences on the public and private interests involved;
- G. Whether there are sources of compensation or financial assistance available to compensate the owner in the event that preservation of the property is recommended by the commission.

17.72.050 HC overlay zone district amendments.

All applications for HC overlay zoning and other zone district amendments shall be reviewed by the planning commission. The commission shall recommend to the city council approval, disapproval or modification of the proposed amendment based on the following criteria:

- A. The structure or site is recognized as a historic site by the Oregon Historic Preservation Office or is listed on the National Register of Historic Places;
- B. The structure or site is recognized by a local or statewide organization as having historic value and is in the process of being designated as such by the state or federal government or by the planning commission based on unique significance of the structure;
- C. The site has been shown to be of archaeological importance by the Oregon State Historical Preservation Office.

## Chapter 17.76

### SHORELAND OVERLAY (SO) ZONE

#### Sections:

- 17.76.010 Purpose.
- 17.76.020 Permitted uses and activities.
- 17.76.030 Conditional uses and activities.
- 17.76.040 Correspondence with underlying zone.
- 17.76.050 Special provisions.
- 17.76.060 Supplemental provisions for estuarine and shoreland uses/activities--pre-application conference.
- 17.76.070 Notification of public agencies.
- 17.76.080 Information to be provided.
- 17.76.090 Resource capabilities test.
- 17.76.100 Dredge, fill, or other significant reductions or degradations.
- 17.76.110 Impact assessment.
- 17.76.120 Coordination with Division of State Lands (DSL) state/federal waterway permit reviews.
- 17.76.130 Shoreland uses/activities matrix.

#### 17.76.010 Purpose.

The purpose of the shoreland overlay zone is to implement the provisions of the shoreland management units adopted in the city's comprehensive plan. The uses for each shoreland management unit are shown in Table 17.76.130, Shoreland Uses/Activities Matrix. These management units are shown on the city's zoning map.

The requirements of this overlay zone are applied in addition to the requirements of the underlying zone. In cases where the requirements of this zone overlap or conflict with the requirements of the underlying zone, the more restrictive shall apply.

#### 17.76.020 Permitted uses and activities.

Permitted uses and activities are designated for each management unit in Table 17.76.130, Shoreland Uses/Activities Matrix. To resolve possible conflicts, the following rules shall apply:

- A. Uses permitted in the shoreland overlay zone but conditional uses in the underlying zone shall be conditional uses.
- B. Uses permitted in the shoreland overlay zone but not permitted in the underlying zone shall not be permitted.
- C. Activities not listed in the underlying zone shall be permitted or not permitted according to this overlay zone.

#### 17.76.030 Conditional uses and activities.

The conditional uses listed in Table 17.76.130, Shoreland Uses/Activities Matrix, may be allowed when in accordance with Chapter 17.92, applicable conditions of approval listed as footnotes on the table, and applicable policies of the comprehensive plan. Plan estuary Policies "A" through "U" are included herein by reference and made a part of this title.

17.76.040 Correspondence with underlying zone.

Specific uses listed in the underlying zone but not listed in this overlay zone shall be considered under the general category of use which corresponds to the specific use.

17.76.050 Special provisions.

All uses and activities, whether permitted or conditional, must conform to the standards listed below and the shoreland uses/activities matrix, appearing as Table 17.76.130 in this chapter. These standards are applicable to wetlands shown on the National Wetlands Inventory Map and other inventory maps of the city.

- A. Dredged Material Disposal (DMD), Restoration (R), or Mitigation (M) Sites. Uses otherwise permitted by this title but proposed within a designated DMD, R or M site shall be permitted only upon satisfying all of the following criteria:
  - 1. The proposed use must not entail substantial structural or capital improvements, such as roads, permanent structural or capital improvements, such as roads, permanent buildings, or non-temporary water and sewer connections;
  - 2. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site, such as extensive site grading/excavation or elevation from fill;
  - 3. The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat.
- B. Significant Wildlife Habitat. These sites are limited to uses and activities which are consistent with the protection of natural values. Such uses may include harvesting wild crops and low-intensity recreational and educational activities not requiring developed facilities.
- C. Riparian Vegetation. Riparian vegetation shall be protected as per Section 17.104.100, and by requiring a site plan showing (as applicable):
  - 1. The shoreline;
  - 2. The shorelands plan boundary;
  - 3. The extent of riparian vegetation;
  - 4. The details of proposed construction or access and any proposed vegetation removal;
  - 5. The above shall be shown for an area within fifty (50) feet horizontal distance from the line of non-aquatic vegetation.
- D. Areas Especially Suited for Water-Dependent Uses (ESWD). Any use proposed for a site designated as ESWD on the special features map must be found to be consistent with comprehensive plan Policy "L."
- E. Historic Structures and Sites. The Breuer Building, the Bandon Lighthouse, the Old Coast Guard Building and the Moore Mill Truck Shop are protected by the historic-cultural overlay zone (HC), and all uses shall be consistent with comprehensive plan Policy 2--Historical and Archaeological Preservation.

17.76.060 Supplemental provisions for estuarine and shoreland uses/activities--pre-application conference.

- A. The following provisions shall be applied as applicable to implement Chapter 17.64: The applicant may request a pre-application conference which will be held within ten (10) days of the request.
- B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this title and the comprehensive plan, provide for an exchange of information regarding applicable elements of the comprehensive plan and city ordinances, determine what technical and design assistance will be needed to aid the applicant, identify previously approved development proposals of a similar nature

into conformance with necessary state and/or federal permit requirements, indicate what information will be required to review the application, and otherwise identify policies and requirements of this title that create opportunities or pose constraints for the proposed development.

17.76.070 Notification of public agencies.

For conditional uses within the shoreland overlay zone, the following agencies shall be notified by mail according to the notice provisions as stated in Section 17.120.090:

- A. State agencies:
  - 1. Division of State Lands,
  - 2. Department of Fish and Wildlife,
  - 3. Department of Environmental Quality;
- B. Federal agencies:
  - 1. Army Corps of Engineers,
  - 2. National Marine Fisheries Service,
  - 3. U.S. Fish and Wildlife Service;
- C. Other notification (where applicable):
  - 1. State Water Resource Department (uses including appropriation for water only),
  - 2. State Department of Geology and Mineral Industries (mining and mineral extraction only),
  - 3. State Department of Energy (generating and other energy facilities only),
  - 4. Department of Economic Development (docks, industrial and port facilities and marinas, only).

17.76.080 Information to be provided.

In addition to the information listed in Chapter 17.92 and in the underlying zone and in other parts of this title, the following information may be required, as applicable:

- A. Identification of resources existing at the site;
- B. Description of the types of alteration to occur, if any, including information detailing the extent of the alteration, such as:
  - 1. Area measurement,
  - 2. Site coverage,
  - 3. Depth to which alterations will extend,
  - 4. Volume of material removed or placed as fill;
- C. Effects of the proposed use on physical characteristics of the estuary and the proposed site, such as:
  - 1. Flushing,
  - 2. Patterns of circulation and other hydraulic factors,
  - 3. Erosion and accretion patterns,
  - 4. Salinity, temperature and dissolved oxygen,
  - 5. Biological and chemical oxygen demand,
  - 6. Turbidity and salinity characteristics of the water;
- D. Effects of the proposed use on biological characteristics of the estuary and shorelands such as:
  - 1. Benthic habitats and communities,
  - 2. Anadromous fish migration routes,
  - 3. Fish and shellfish spawning and rearing areas,
  - 4. Primary productivity, resting, feeding and nesting areas for migratory and resident shorebirds, wading birds and other waterfowl,
  - 5. Riparian vegetation,
  - 6. Wildlife habitat;
- E. Effects of the proposed use on other established uses in the area;

- F. Impacts of the proposed use on navigation and public access to shoreland or estuarine areas;
- G. Assurance that structures have been properly engineered;
- H. Alternative project designs and/or locations which have been considered in order to minimize preventable adverse impacts;
- I. Steps which have been taken to minimize or avoid adverse impacts;
- J. If application has been made to the Corps of Engineers of Oregon Division of State Lands for permit approval, applications for local approval shall include the federal/state permit application and information submitted with that request;
- K. A set of findings which demonstrate compliance with the applicable policies, standards, the criteria required by the comprehensive plan and this title;
- L. Maps, photographs, or other descriptive materials showing how the siting, design, operation and maintenance chosen by the applicant meets the policies, standards and criteria of the comprehensive plan and this title.

17.76.090 Resource capabilities test.

Certain uses in estuarine areas require findings of consistency with the resource capabilities of the area. For uses and activities requiring the resource capabilities test, a special condition is noted in the applicable subdistrict. Other uses either do not require the test or adequate findings are already included in the comprehensive plan. The provisions of this section apply only to those uses and activities for which the resource capabilities test is required as a special condition.

- A. A determination of consistency with resource capabilities shall be based on:
  - 1. Identification of resources existing at the site, including environmental (e.g., aquatic life and habitat present, benthic populations, migration routes) and social and economic factors (navigation channels, public access facilities, areas especially suited for water-dependent use);
  - 2. Evaluation of impacts on those resources by the proposed use;
  - 3. Determination of whether the resources can continue to achieve the purpose of the management unit if the use is approved.
- B. In determining consistency of a proposed use with the resource capabilities of the area, the city shall rely on federal or state resource agencies for regulated activities in estuarine areas. Findings must show that the proposed use is consistent with the permits approved for that area. The city may submit proposed findings to the permit-issuing agency as a part of the local review and comment process. (Amended during 2000 codification)

17.76.100 Dredge, fill, or other significant reductions or degradations.

Uses and activities which involve dredge, fill or other significant reductions or degradations of natural estuarine values are allowed in the respective management units only if such actions are found to be consistent with comprehensive plan Policy "E." For the purpose of this requirement, "significant" shall be determined by:

- A. The U.S. Army Corps of Engineers through its Section 10 and 404 permit processes; or
- B. The Department of Environmental Quality for approvals of new aquatic log storage areas only; or
- C. The Department of Fish and Wildlife for new aquaculture proposals only. (Amended during 2000 codification)

17.76.110 Impact assessment.

Findings for uses in Sections 17.76.090 and 17.76.100 shall be made according to comprehensive plan Policy "E." Findings need not be lengthy or complex, but it shall provide a clear understanding of the impacts to be expected.

17.76.120 Coordination with Division of State Lands (DSL) state/federal waterway permit reviews.

If the city is notified by DSL that a state or federal permit has been requested for a use or activity which is permitted outright or permitted with standards, the following provisions shall apply:

- A. No application to the city is necessary for uses or activities which do not require local approval. Local input shall be provided to permit granting agencies in response to public notice provisions of their application procedures.
- B. The fact that a use or activity is permitted, permitted conditionally or not permitted shall be reported to the permit granting agency within three working days of a public notice or other request for such information. The report shall contain a statement of what, if any, standards and conditions must be applied if the permit is granted, and the need, if any, for other local permits for uses associated with the regulated activities. Also, the city may submit proposed findings to the permit agency as a part of the local review and comment process.

17.76.130 Shoreland uses/activities matrix.

Shoreland uses/activities in the SO zone are shown in the following table:

Table 17.76.130: SHORELAND USES/ACTIVITIES MATRIX

Shorelands Mgmt Unit No. Plan Designation Uses	1 PF	2 CD	3A MC	3E ESWD	4 PF	5 UR	6 OTC	7 OS	8 CD	9 PF	10 NR	11 NR	12 CD
Aquaculture	NP	NP	P	P	NP	P	NP	NP	NP	NP	CU	CU	NP
<b>Commercial Uses</b>													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Water-related	NP	NP	P	CU*	NP	NP	CU	NP	P	NP	NP	NP	NP
Not dependent or related	NP	CU	P	NP	NP	NP	CU	NP	P	NP	NP	NP	NP
Water oriented	NP	CU	P	NP	NP	NP	P	NP	P	NP	NP	NP	NP
<b>Industrial Uses</b>													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Water-related	NP	NP	P	CU*	NP	NP	CU	NP	P	NP	NP	NP	NP
Not dependent or related	NP	NP	P	NP	NP	NP	CU	NP	P	NP	NP	NP	NP
Log Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Marinas (shore facilities)	NP	NP	NP	P	NP	NP	NP	NP	CU	NP	NP	NP	NP
<b>Recreational Uses</b>													
Water-dependent	P	CU	P	P	P	P	NP	NP	NP	P	P1	P1	P1
Water-related	NP	CU	P	CU*	P	P	P	NP	CU	NP	P1	P1	P1
Not dependent or related	NP	CU	P	NP	P	P	P	P	P	NP	P1	P1	P1
Residential	NP	CU	P	NP	NP	P	P	NP	P	NP	NP	NP	CU6
Utilities	P	P	P	CU*	P	CU	P	P	P	P	CU	CU	P
Parks and Sanctuary	P	CU	CU	NP	CU	CU	P	P	CU	P	P	P	CU



Shorelands Mgmt Unit No. Plan Designation Uses	1	2	3A	3E	4	5	6	7	8	9	10	11	12
	PF	CD	MC	ESWD	PF	UR	OTC	OS	CD	PF	NR	NR	CD
Harvest Wild Crops	P	P	NP	NP	NP	P	NP	P	NP	P	P	P	P
Pub. Use Structure including Recreational	P	CU	CU	CU*	P	CU	CU	P	CU	P	CU	CU	CU
Historical Struc. including Rehab.	P	CU	CU	CU*	P	CU	CU	P	CU	P	CU	CU	CU
Forest Products													
Propagation & selective harvest	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CU	CU	NP
Grazing	NP	NP	NP	NP	NP	NP	NP	CU	NP	NP	CU	CU	NP
Dredged Material													
Disposal	NP	NP	NP	NP	NP	NP	NP	NP	CU 2,3,5	NP	CU 2,3,5	NP	NP
Dune Stabilization and Restoration													
Active	NP	CU	NP	NP	NP	NP	NP	NP	NP	NP	CU	CU	CU
Passive	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P
Fill	P	P7	P	P	P	P	P	P	P	P	P	P	P
Land Division	NP	P	P	P	NP	P	P	P	P	NP	CU	CU	CU
Mitigation	NP	P	NP	NP	NP	NP	NP	NP	P	NP	P	P	CU
Shoreline Stabilization													
Structural	CU 4	CU4	CU4	CU4	CU4	NP	CU4	NP	CU4	CU4	CU4	CU4	CU4
Nonstructural	P	P	P	P	P	P	P	P	P	P	P	P	P

PF	Public Facilities	P	Permitted
CD	Controlled Development	CU	Conditional Use
MC	Marine Commercial	NP	Not Permitted
UR	Urban Residential	*	Must be in conjunction with a water-dependent use
OTC	Old Town Commercial		
OS	Open Space		
I	Industrial		
NR	Natural Resource		

#### Endnotes

1. Low intensity uses only
2. In designated site only
3. Dredged material disposal (DMD) must include stabilization measures to control runoff and prevent sloughing
4. Subject to comprehensive plan policy "I"
5. Subject to comprehensive plan policy "N"
6. See Bandon comprehensive plan, Part V, Land Use Classifications, Public and Environmental Areas, Natural Resource Areas
7. Fill subject to specific requirements of the CD-2 zone Chapter 17.24.110

## Chapter 17.77

### BEACHES AND DUNES OVERLAY (BDO) ZONE

#### Sections:

- 17.77.010 Purpose.
- 17.77.015 BDO Zone Boundaries
- 17.77.020 Permitted and Prohibited uses and activities.
- 17.77.030 Conditional uses and activities.
- 17.77.040 Relationship between the BDO Zone and the underlying zone.
- 17.77.050 Amendments to the Beaches and Dunes Overlay (BDO) Zone.
- 17.77.070 Comprehensive Legislative Amendments to the Beaches and Dunes Overlay (BDO) Zone or BDO Zone Boundaries

#### 17.77.010 Purpose.

The purpose of the Beaches and Dunes Overlay (BDO) Zone is to implement the provisions of the Beaches and Dunes Section of the Coastal Resources Chapter of the City of Bandon Comprehensive Plan and Statewide Planning Goal 18 (Beaches and Dunes). The BDO boundary is identified by the City of Bandon utilizing preliminary ocean flood analysis maps developed by the Oregon Department of Geology and Mineral Industries (DOGAMI) in 2010 on behalf of FEMA for the purposes of identifying the 1% flood zone and the most landward extent of potential ocean flooding associated with the 1% storm. The purpose of the Beaches and Dune Overlay is to identify areas subject to ocean overtopping and wave undercutting that would be subject to Statewide Planning Goal 18 development restrictions.

#### 17.77.015 Beaches and Dunes Overlay Zone Boundaries

The Beaches and Dunes Overlay Zone is shown on the City of Bandon zoning map and the more detailed supplemental maps that define the Beaches and Dunes Overlay Zone boundary.

- A. The Jetty (Beaches and Dunes Overlay (BDO) Zone Map - South Jetty Area )
- B. Johnson Creek Study Area (Beaches and Dunes Overlay (BDO) Zone Map - Johnson Creek Area)

#### 17.77.020 Permitted and Prohibited uses and activities.

The Beaches and Dunes Overlay Zone is a limited use overlay zone. All uses and activities authorized by the underlying zone are subject to review and approval as outlined in this Chapter. Residential developments and commercial and industrial buildings are prohibited within the Beaches and Dunes Overlay Zone.

#### 17.77.030 Conditional uses and activities.

Other development, not restricted in 17.77.020 above, shall only be allowed if the proposed development:

- A. Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and
- B. Is designed to minimize erosion in beach and dune areas by limiting the destruction

of desirable vegetation and the exposure of stable and conditionally stable areas to erosion; and

C. Mitigates any significant adverse environmental effects on the site and adjacent areas; and

D. Is proposed to include

1. temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; and
2. for protecting the surrounding area from any adverse effects of the development; and 3) minimizes to insignificant levels, hazards to life, public and private property, and impacts to the natural environment which may be caused by the proposed use.

**17.77.040 Relationship between the Beaches and Dunes Overlay Zone and the underlying zone.**

The Beaches and Dunes Overlay (Beaches and Dunes Overlay) Zone is a limited use overlay zone. It identifies the location of existing Statewide Planning Goal 18 development prohibition areas within beach and dune areas. Uses and activities allowed within the underlying zone are limited as indicated in 17.77.030 above.

**17.77.050 Replacement of lawfully established Structures:**

Any lawfully established structure which is located in the Beaches and Dunes Overlay Zone, may be replaced subject to the following:

- A. The structure must be sited either within the same building footprint, or farther away from the ocean, if deemed appropriate by the City and the applicant to decrease coastal hazard risk, and
- B. Replacement or repair of lawfully established structures shall be subject to all city, state and federal siting and construction requirements in effect at the time of the application.
- C. Real property that is claimed by marine erosion and becomes part of the ocean beach will no longer be buildable land. If a dwelling is damaged or destroyed by coastal storm and ocean erosion there may be little or no buildable land remaining on which to rebuild. In addition, there may be jurisdictional or ownership issues which may impact or preclude replacement of the dwelling.

**17.77.070 Comprehensive Legislative Amendments to the Beaches and Dunes Overlay (BDO) Zone or BDO Zone Boundaries.**

- A. The City may amend the boundary utilizing a legislative comprehensive plan amendment process, if a future comprehensive area wide analysis, consistent with Statewide Planning Goal 18, indicates that a boundary change is warranted.
- B. The analysis, and findings to develop a new boundary by the city must address Goal 18 development prohibition areas for residential and commercial/industrial structures (i.e. beaches, active foredunes, other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas ( deflation plains) that are subject to ocean flooding) . In addition, other development in these areas should only be permitted if it:

1. Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and
  2. Is designed to minimize adverse environmental effects.
- C. Notice to DOGAMI, OPRD, and DLCDC, must be provided at least 45 days prior to the first evidentiary hearing.

## Chapter 17.84

### ARCHITECTURAL REVIEW OVERLAY (AR) ZONE\*

#### Sections:

- 17.84.010 Establishment - Boundaries
- 17.84.015 Purposes.
- 17.84.020 Architectural Review Overlay Provisions.
- 17.84.030 Certificate of appropriateness (COA).
- 17.84.040 Application for COA.
- 17.84.042 Fees
- 17.84.044 Notice and Hearing
- 17.84.050 Appeal.
- 17.84.055 Time Limitation
- 17.84.060 Standards and Guidelines
- 17.84.070 Signs.
- 17.84.100 Nonconforming uses and structures.

Ordinance history: 1336; 1446, 1464, 1546

#### 17.84.010 Establishment - Boundaries

- A. This chapter establishes the architectural review overlay zone (AR) and makes the district subject to the architectural review overlay zone regulations. The boundaries are shown on the architectural review overlay zone map.

#### 17.84.015 Purpose

The purpose of this chapter is generally the promotion of the general welfare of the public through the preservation, restoration, protection and regulation of the buildings, structures, appurtenances, sites, places and elements of Old Town Bandon, and to achieve a visual atmosphere of a coastal village of long ago. Specifically this chapter is meant to aid in the following:

1. Stabilize and improve property values in the district;
2. Foster civic pride in the beauty and accomplishments of both the past and present;
3. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry;
4. Strengthen the economy of the city;
5. Promote the use of the historical district, its landmarks and scenic areas for the education, pleasure and welfare of Bandon citizens. (Ord. 1446 (part), 2000)

#### 17.84.020 Application of provisions.

Within the architectural review overlay zone all uses permitted outright or conditionally within the underlying general use zone shall be allowed subject to the provisions of that use zone. The provisions of the architectural review overlay zone shall be applied in addition to the requirements of the underlying zone. None of the provisions of the architectural review overlay zone are meant to reduce or replace the provisions of the applicable underlying general use zone.

#### 17.84.030 Certificate of appropriateness (COA)

- A. No buildings or structures shall be erected, reconstructed, altered, restored or painted, within the AR overlay zone; and no sign, light, fence, wall or other appurtenant fixture

hereinafter called “appurtenant fixtures” shall be erected or displayed within the AR overlay zone on any lot or visible from the exterior of any building or structure, and no landscaping or plantings shall be located unless an application of a Certificate of Appropriateness (COA) has been approved in accordance with this chapter. Further, no zoning compliance or other permit shall be granted for any such purpose in the Architectural Review Overlay Zone until a COA has been issued.

- B. The Planning Commission shall be the approving authority for COA's except as noted in subsection C of this section.
- C. The Planning Director is authorized to issue administrative decisions regarding the following items without notice: routine maintenance projects, replacement of existing appurtenant fixtures of like material and design, landscaping, painting (if the colors are consistent with the approved color chart), signs, and other actions determined by the Planning Director to have little or no impact on the building or streetscape. The Planning Director may refer any application to the Planning Commission.

17.84.040 Application for COA.

- A. All applications for a COA shall be filed with the Planning Department on the prescribed forms and upon payment of the prescribed fee. All information required in the application shall be submitted before the matter is scheduled before the Commission or by the Planning Director. All plans, elevations, colors, materials, textures, landscaping and such other information as required on the application checklist and/or deemed necessary by staff to determine the appropriateness of the exterior features of buildings in question shall be included as part of the application.
- B. Within 15 days of the application being submitted to the City, the Planning Department shall notify the applicant in writing of what information, if any, is needed to complete the application. Upon receipt of the requested information, the application shall be deemed complete.

17.84.042 Fees

Fees to accompany applications for a COA shall be set by resolution of the City Council.

17.84.044 Notice and Review

Notice shall be provided and review shall occur in accordance with Chapter 17.120.070.

17.84.050 Appeal.

Appeals shall be made pursuant to the requirements of Chapter 17.124.

17.84.060 Standards and Guidelines

The following criteria shall be considered appropriate to the proposed improvement before a certificate of appropriateness shall be approved.

A. Landscaping

1. Planting Material. Removal of mature trees and shrubs is discouraged and should not be done unless there is no alternative. Care should be taken to select plants appropriate to the landscaping requirement (shade, ground-cover, screening, etc.). Consideration should be given to the future care and maintenance of all plant material.
2. Landscape Continuity. Plants and other landscaping elements (fences, walls, steps, etc.) should be used to create continuity among buildings, especially along the street edge and front yards.

- B. Fences. The height and design of fences should relate to their intended use and to the

principal structure on the lot. Where fences are used they should be of wood, iron, stone or plant material. Chain link or similar metal fences, plastic, fiberglass or plywood fences are discouraged.

- C. Sidewalks and Driveways. Where walkways and driveways are necessary, asphalt should be avoided. Brick and other materials indigenous to the area are appropriate for walkways. Aggregate concrete or gravel are appropriate for driveways.

D. Building Design

1. Building Size and Surroundings. The height, width and depth of the building should be compatible with the nearby buildings, especially those most adjacent.
2. Scale. Buildings can be made to appear larger or smaller than they actually are through the use of architectural elements and details. Buildings should have an apparent size which relates to adjacent structures, the intended use and the height of the human being.
3. Alignment. The building should be aligned parallel to the existing structures or the street, maintaining the traditional pattern.
4. Orientation. The entrance location and primary facade of the building should be oriented in the same or similar direction of nearby buildings.
5. Building Shape. The ratio of height to width of the different elevations of the building should be consistent with that of nearby buildings.
6. Scale of Opening. The ratio of open surfaces (windows, doors) to enclosed surfaces (vertical and horizontal) which is similar to nearby buildings.
7. Directional Emphasis. The building shape, size, open and enclosed areas and building elements should together give a directional emphasis (vertical and horizontal) which is similar to nearby buildings.
8. Foundations. Exposed foundation walls should be as inconspicuous as possible and compatible with total architectural style of the structure.
9. Outbuildings. Size and scale of outbuildings should relate to the primary structure on the lot and should not be located so as to compete with or distract from that primary structure.

E. Architectural Features

1. Roof Form. The size, shape and type of roof should complement those of nearby structures.
2. Openings. The height, width and shape of door and window openings should be compatible with nearby buildings.
3. Projections. Projecting elements (dormers, bays, cupolas, turrets, etc.) should be compatible with those (if any) on adjacent structures and should be an integral part of the structure. Marquees should have sufficient roof slant to shed debris which could accumulate and create a fire hazard.
4. Additions. Additions such as porches, decks and exterior stairways should be compatible in size, shape and type with those found in nearby buildings and should be integrated into the overall design of the structure.
5. Exterior Wall Form. The size, shape and texture of exterior walls should be compatible with that of nearby buildings.

D. Materials

1. Type. The type of materials used should be selected from those acceptable materials already present in the area. An effort should be made to maintain the spectrum of materials already historically present.
3. Pattern. The pattern created by the unit size of the material (bricks,

siding, shingles, etc.) and the method of application should be similar to those already present in the area.

4. Texture. The texture of materials (both visual and tactile) should be similar to those of materials present in the area.
5. Color. The color of the materials should be natural wood or muted tones which are compatible with surrounding structures.

E. Utilities and Mechanical Equipment

1. Utility Lines. All utility lines should be underground and entry fixtures located away from high-use areas and main entrances or screened in an approved manner.
2. Exterior Lighting. All lighting should be appropriate to the building and its surroundings in terms of style, scale and intensity of illumination. Low voltage systems are recommended and site lighting will be considered on an individual case by case basis.
3. Solar Energy Devices. Where solar energy is to be used as a primary or complementary source of heat or other energy, solar collection devices should be located on the rear or other non-public side of the building, or on roof surfaces which are not visible from adjacent streets or other public areas in the city. Solar collection devices which are not attached to the building should be located only in the side or rear yard.
4. Mechanical Equipment. To minimize the impact of mechanical equipment on the appearance of the building and the community, window air conditioning units or condenser elements should not be located on the facade. Antennas and satellite dishes and other receiving equipment should be located where they are not visible from the front facade. Mechanical equipment on the ground should be screened with a fence or plant materials, or housed in a structure which is in harmony with the surroundings. Mechanical equipment attached to the side or roof of a building, including heating vents, should be kept as low as possible and covered or painted to blend with the background.
5. Dumpsters, trash receptacles for the exclusive use of a business, or other storage areas shall be screened or fenced or otherwise not visible from the street.

17.84.070 Signs

See Chapter 17.90 Signs



## Chapter 17.88

### AIRPORT OVERLAY (AO) ZONE

#### Sections:

17.88.010	Purpose.
17.88.020	Compliance.
17.88.030	Special definitions.
17.88.040	Permitted uses.
17.88.050	Conditional uses.
17.88.060	Procedures.
17.88.070	Limitations.

#### 17.88.010 Purpose.

The airport overlay zone (AO) is intended to prevent the establishment of air space obstructions in airport approaches and surrounding area through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the city of Bandon and Coos County.

In order to carry out the provisions of this overlay zone there is created and established an airport overlay zone, which includes all of the land lying beneath the airport imaginary surfaces as they apply to the Bandon State Airport in Coos County. Such zones are shown on the current airport approach and clear. zone maps, which are made a part of this title. (Ord. 1336 § 6.600, 1994)

#### 17.88.020 Compliance.

In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning districts, the more restrictive provision shall apply.

#### 17.88.030 Special definitions. As used in this chapter:

“Airport approach safety zone” means a surface longitudinally centered on the extended runway center line and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of one thousand two hundred fifty (1,250) feet. The airport approach safety zone extends for a horizontal distance of five thousand (5,000) feet at a slope of twenty (20) feet outward for each foot upward (20:1).

“Airport hazard” means any structure, tree or use of land which exceeds height limits established by the airport imaginary surfaces.

“Airport imaginary surfaces” means those imaginary areas in space which are defined by the airport approach safety zone, transitional zones, horizontal zone, clear zone and conical surface and in which any object extending above these imaginary surfaces is an obstruction.

Clear Zone. The “clear zone” extends from the primary surface to a point where the approach surface is fifty (50) feet above the runway end.

Conical Surface. The “conical surface” extends twenty (20) feet outward for each one foot upward (20:1) for four thousand (4,000) feet beginning at the edge of the horizontal surface (five thousand (5,000) feet from the center of each end of the primary surface of each visual and utility runway at one hundred fifty (150) feet above the airport elevation) and upward

extending to a height of three hundred fifty (350) feet above the airport elevation.

"Horizontal surface" means a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet from the center of each end of the primary surface of the runway and connecting the adjacent arcs by lines tangent to those arcs.

"Noise sensitive areas" means within one thousand five hundred (1,500) feet of the airport or within established noise contour boundaries exceeding fifty-five (55) Ldn.

"Place of public assembly" means a structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

"Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of the runway. The width of the primary surface is five hundred (500) feet.

Transitional Zones. "Transitional zones" extend seven feet outward for each one foot upward (7:1) beginning on each side of the primary surface, and from the sides of the approach surfaces thence extending upward to a height of one hundred fifty (150) feet above the airport elevation (horizontal surface).

"Utility runway" means a runway that is constructed and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

17.88.040 Permitted uses.

Permitted uses within the airport approach safety zone include:

- A. Farm use, excluding the raising and feeding of animals which would be adversely affected by aircraft passing overhead;
- B. Landscape nursery, cemetery or recreation areas which do not include buildings or structures;
- C. Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights or result in glare, or in any way impair visibility in the vicinity of the landing approach. Approach surfaces must clear these by a minimum of fifteen (15) feet;
- D. Pipeline;
- E. Underground utility wire.

17.88.050 Conditional uses.

Conditional uses within the airport approach safety zone include:

- A. A structure or building accessory to a permitted use;
- B. Single-family dwellings, mobile home, manufactured dwelling, duplexes and multi-family dwellings, when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Coos County a hold harmless agreement and aviation and hazard easement and submits them to the airport sponsor and Bandon planning commission;
- C. Commercial and industrial uses, when authorized in the primary zoning district, provided the use does not result in the following:
  - 1. Creating electrical interference with navigational signals or radio communications between the airport and aircraft,
  - 2. Making it difficult for pilots to distinguish between airport lights or others,
  - 3. Impairing visibility,
  - 4. Creating bird strike hazards,
  - 5. Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use the airport,

6. Attracting a large number of people;
7. Building and uses of a public works, public service or public utility nature.

17.88.060 Procedures.

An applicant seeking a conditional use under Section 17.88.050, shall follow procedures set forth in the conditional use section of the city zoning ordinance (Chapter 17.92). Information accompanying the application shall also include the following:

- A. Property boundary lines as they relate to the airport imaginary surfaces;
- B. Location and height of all existing and proposed buildings, structures, utility lines and roads; and
- C. A notice shall be provided to the Department of Transportation, Aeronautics Division, for conditional use applications within five thousand (5,000) feet of the sides or ends of the runway. The applicant shall furnish a statement from the Oregon Aeronautics Division indicating that the proposed use will not interfere with operation of the landing facility.

17.88.070 Limitations.

- A. To meet the standards and reporting requirements established in FAA Regulations, Part 77, no structures shall penetrate into the airport imaginary surfaces as defined above under Section 17.88.030.
- B. No structure of public assembly shall be permitted in the airport approach safety zone.
- C. No structure or building shall be allowed within the clear zone.
- D. Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern, provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
- E. No glare-producing materials shall be used on the exterior of any structure located within the airport approach safety zone.
- F. In noise-sensitive areas (within one thousand five hundred (1,500) feet of an airport or within established noise contour boundaries of fifty-five (55) Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be fifty-five (55) Ldn and above, prior to issuance of a building permit for construction of noise-sensitive land use (real property normally used for sleeping or normally use as schools, churches, hospital or public libraries), the permit application shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than forty-five (45) Ldn. The planning and building department will review building permits for noise sensitive developments.

## Chapter 17.89

### COMMUNICATIONS TOWER OVERLAY ZONE

#### Sections:

- 17.89.010 Purpose.
- 17.89.020 Construction standards.
- 17.89.030 Application requirements.
- 17.89.040 Collocation.
- 17.89.050 Equipment shelters.
- 17.89.060 Electronic emissions and electromagnetic radiation.
- 17.89.065 Non-conforming communication facilities and towers
- 17.89.070 Enforcement.

#### 17.89.010 Purpose.

The purpose of the Communications Tower Overlay Zone is to establish locational and design standards for the placing of all wireless towers in a way that encourages the development of a competitive and modern communication marketplace while also protecting the aesthetics, health and well-being of the public. This chapter is meant to aid in the following:

- A. To recognize that towers are required to server a variety of public needs and serve a variety of users including residents, businesses, and visitors;
- B. To establish standards for the siting of telecommunications towers and antennas;
- C. To protect the unique scenic quality of Band by encouraging the use of thoughtful design, siting, construction, and landscaping of wireless facilities;
- D. To ensure compliance of all telecommunications facilities with current federal, state, and local regulations;
- E. To prevent harm to the health, welfare, and visual environment of Bandon and its citizens.

#### 17.89.020 Construction Standards

- A. Telecommunication facilities shall be located in the area of minimal visual impact within the site which will allow the facility to function consistent with its purpose.
- B. Height Restrictions: The height restriction will be the minimum necessary to achieve the desired results. However, in the event of dense vegetation or other substantial obstacles to signal propagation, facilities can extend to a height of no more than 20 percent above the average tree canopy height within 1,000 feet of the proposed facility.
- C. Concealment Technology: The applicant may propose a telecommunications facility that simulates objects that typically occur in landscapes similar to the proposed locations (except billboards, electrical transmission or telecommunications towers). This consideration will be at the discretion of the City Planning Department and Planning Commission, with approval criteria based on the appearance of the structure in the context of the landscape, the aesthetic appropriateness, and if it would be a preferable alternative to an undisguised facility.
- D. Lattice towers are prohibited as freestanding wireless communications support structures.
- E. Setbacks: No new tower shall be constructed without a setback from the tower's base of at least 1.5 times the tower height to a public or private road and at least 2.5 times the tower height to the nearest property line. Reductions of up to 50 percent of the setback may be considered subject to review under the Conditional Use Permit criteria.
- F. Finished color: The preferred finished color of all communication towers shall be black. All structures must have a non-reflective finish and color that will mitigate visual impact, unless otherwise required by other government agencies.

- G. Landscaping: The communication tower shall be improved in a way that maintains and enhances existing vegetation. In addition to the required fencing, the applicant shall install suitable landscaping to screen the base of the tower and all accessory equipment where necessary. The tower must be kept mowed, clean and maintained, free from tall weeds.
- H. Fencing: A fence no less than six feet in height shall be provided around the communication tower, providing access through a locked gate. The fence shall be landscaped with appropriate materials to sufficiently block the view of the fence from the public.
- I. Signs: No commercial messages nor any other signs beyond safety warnings and an identification sign of not greater than 6 square feet shall be placed on any tower or facility.
- J. Illumination: The telecommunication tower shall not be artificially lighted unless required by the FCC or FAA and approved by the City of Bandon Planning Department.
- K. Maintenance: The applicant, co-applicant, or tenant shall maintain the communication tower. Such maintenance shall include, but shall be limited to painting, maintaining structural integrity, and landscaping. Also, to ensure the structural integrity of communication towers, the owner of a communication tower shall be in compliance with all applicable local, state and federal maintenance standards for communication towers.
- L. Abandonment: The owner of a facility shall establish a cash security fund or provide the City with an irrevocable letter of credit in an amount to secure the cost of removing an antenna, antenna array, or tower that has been abandoned. Such amount to be submitted by the project engineer and confirmed by the City. In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of this requirement and for notifying the City of the transfer.

#### 17.89.030 Application Requirements

The siting of a communication or tower is considered a conditional use in the Communication Tower Overlay Zone. In addition to any other materials required for a standard permit under this section or any other ordinance of the City of Bandon, all applicants for permits to construct a telecommunications tower or antenna shall submit the following:

- A. Findings of fact addressing the Conditional Use Permit approval standards in 17.92.040;
- B. A description of the proposed antenna including: demonstrated need for the facility; distance from the nearest existing facility and the nearest potential colocation site, total anticipated capacity of the structure, including number and types of antennas which can be accommodated; the proposed color, surfacing of the facility and associated fixtures; and use of concealment technology (if applicable).
- C. A site map showing:
  - 1. The applicant's proposed facility site.
  - 2. The proposed location of the tower and all easements and existing structures within two hundred and fifty (250') feet of the proposed site on the property on which the tower will be located including the access drive and the intersection with the public street.
  - 3. Other sites in the vicinity evaluated for the proposed facility.
  - 4. Other similar existing facilities in the area and the distance to them.
  - 5. The proposed coverage area and approximate geographic limits of the "cell" to be created by the facility.
- D. A site plan, drawn to scale, that includes:
  - 1. Existing and proposed improvements.
  - 2. Adjacent roads.
  - 3. Parkin, circulation and legal access.

4. Connections to utilities required.
  5. Areas of existing and proposed vegetation to be retained, replaced, added, or removed.
  6. Setbacks from property lines of all existing and proposed structures.
- E. Elevations showing height above native grade, antennas, towers, equipment shelters, area enclosures and other improvements related to the facility.
- F. A landscape plan, including ancillary facilities that will be located on the ground to obscure equipment.
- G. A photographic simulation showing how the facility will appear on the landscape. The simulation should contain a graphic simulation showing the appearance of the proposed tower, antennas and ancillary facilities from at least three points within a five-mile radius. Such points shall include views from public places, including but not limited to parks, rights-of-way, and waterways to ensure that various potential views are represented. The study shall also include existing scaled elements (e.g. houses, trees, power lines).
- H. A report/analysis from a qualified engineer documenting the following:
1. Demonstrated need for the communication tower.
  2. Technical information justifying the need to locate the proposed facility in the request location (service, demands, topography, dropped coverage, etc.) and not collocated.
  3. The reasons why the communication tower must be constructed at the proposed height.
  4. The use of sensitive site design utilizing compact and least obtrusive technology (e.g., factors governing selection of the proposed design and employment concealment technology).
- I. A signed agreement, stating that the applicant and future owners or operators will allow collocation with other users, provided all safety, structural, and technological requirements are met.
- J. Documentation that the communication tower has been reviewed and is not determined to be a hazard to life, health or property if constructed as proposed from the FAA, the Oregon Department of Aviation, the FCC and any other local or state agency with jurisdiction.
- K. Any other documentation the applicant feels is relevant to comply with the applicable standards.
- L. Documentation that the applicant has held a local community meeting to inform members of the surrounding area of the proposed wireless communication facility. Meeting documentation shall include all of the following:
1. A copy of the mailing list to properties within 1000 feet of the proposed facility.
  2. A copy of the notice of community meeting mailed one week prior to the meeting.
  3. A copy of the newspaper ad placed in a local paper one week prior to the meeting.
  4. A summary of issues raised during the meeting.

17.89.040 Collocation

- A. In all applications for construction of a new facility, the applicant must prove by substantial evidence that a bona fide need exists for the facility and that no reasonable combination of locations, techniques, or technologies will obviate the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing facilities and that the cost of collocation exceeds the cost of a new facility by at

least fifty percent.

- B. Prior to the issuance of a permit for a new tower, the applicant shall demonstrate commitment to co-location as follows:
1. The applicant requesting the permit shall submit evidence to the City demonstrating that a genuine effort has been made to solicit additional users for the proposed new tower. Evidence of this shall include, at a minimum, copies of notices sent by registered mail, return receipt requested, to all other providers of cellular and wireless communications services within Coos County and adjacent counties, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing of costs, and requesting a written response within fifteen business days.
  2. The applicant shall sign an instrument, maintained by the City, agreeing to encourage and promote the joint use of telecommunications towers within the City and, to that extent, committing that there shall be no unreasonable act or omission that would have the effect of excluding, obstructing or delaying joint use of any tower where fair and just market reasonable compensation is offered for such use.

17.89.050 Equipment Shelters

No equipment shed for a telecommunications facility shall exceed 750 square feet in area nor twelve feet in height. All such sheds shall be screened with vegetation or other aesthetically pleasing materials. Furthermore, all such sheds shall be secured with approved fencing and a locked gate.

17.89.060 Electronic Emissions and Electromagnetic Radiation

- A. Prior to commencing regular operation of the facility, all facility owners and operators must submit a Certificate of Compliance with all current Federal Communications Commission regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility.
- B. All facility operators and owners must sign an agreement, to be maintained by the City, agreeing to bring facilities into compliance with any new federal, state, or local laws or regulations concerning electromagnetic radiation and other electronic emissions applicable to the facility within 120-days of the effective date of the regulation.

17.89.65 Non-Conforming Communication Facilities and Towers

- A. Existing Telecommunication Facilities installed prior to November 2, 2018, shall be deemed a non-conforming use and if damaged or partially destroyed by fire, explosion, earthquake, or other unintentional act may be restored, rebuilt, or required to be removed subject to the following provisions:
1. If the cost of repair or reconstruction does not exceed 50 percent of the value of the existing telecommunication facility, replacement of the damaged portions shall be allowed by right provided that the replaced portions are the same size, extent, and configuration as previously existed.
  2. If the cost of repair or reconstruction exceeds fifty percent of the value of the existing telecommunication facility, the facility shall be removed, and the site restored to its pre-construction condition.

17.89.70 Enforcement

This chapter shall be enforced under Chapter 17.120 of the Bandon Municipal Code. In

addition to fines for violation, the City shall also be entitled to recover costs of enforcement, such as attorney's fees, staff time and removal of the structure.



## Chapter 17.90

### SIGNS

#### Sections:

17.90.010	Purpose
17.90.020	Scope
17.90.030	General Provisions
17.90.040	Temporary Signs
17.90.050	Political Signs
17.90.060	Non-conforming Signs
17.90.070	Residential Zones (R-1, R-2)
17.90.080	Controlled Development Zones (CD-1, CD-2, CD-3)
17.90.090	Controlled Development Residential Zones (CD-R1, CD-R2)
17.90.100	Old Town (C-1) and Architectural Review Overlay (AR)
17.90.110	General Commercial (C-2)
17.90.120	Water Zone (W)
17.90.130	Marine Commercial (C-3)
17.90.140	Light Industrial (LI), Heavy Industrial (HI), and Woolen Mill Overlay (WM)

#### 17.90.010 Purpose The purpose of this chapter is:

- A. to ensure that signs are designed, constructed, installed and maintained to promote safe public automobile, bicycle, and pedestrian traffic;
- B. to protect the health, safety, property and welfare of the public;
- C. to provide prompt identification of businesses and residences for emergency access;
- D. to promote economic development;
- E. to provide clear achievable standards and balance the need of business with the desire to preserve and enhance the visual character of the City.

#### 17.90.020 Scope

- A. The provisions of this chapter shall apply to exterior signs, and signs attached to the interior or exterior surface of windows.
  1. Nothing in this chapter shall permit the erection or maintenance of any sign at any place in any manner unlawful under this or any other chapter of the City of Bandon Municipal Code or State or Federal law.
  2. Official Notices. Nothing contained in this chapter shall be deemed or construed to apply to advertising structures or signs used exclusively to display official notices issued by any court or public office, or posted by any public officer in performance of a public duty, nor a private person in giving a legal notice.
  3. These provisions do not apply to signs owned and installed by the City.

#### 17.90.030 General Provisions

- A. General provisions apply to all signs and advertising structures in all zones.
  1. Except as provided in Section 17.90.040, H., all signs must be located on the same property on which the activity to which the sign refers is located. Signs

attached to a building, which are allowed by a temporary right-of-way permit to extend into the right-of-way are not considered off-site signs.

2. No sign shall interfere with the required vision clearance area.
3. Signs placed on or affixed to vehicles and/or trailers which are parked in the public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to display the sign are prohibited.
4. The area of a sign shall be the area of the smallest rectangle required to encompass the outside of all words, numbers, letters, logos and symbols.
5. Electronic displays or readerboards are prohibited, except for the following
  - a. Time and temperature signs as specifically approved by the Planning Commission.
  - b. One electronic readerboard shall be allowed as a conditional use on Bandon School District property located at 550 9<sup>th</sup> St. SW subject to the following requirements:
    - (1) The new readerboard sign shall be erected in the same location as the original manual readerboard sign.
    - (2) The new readerboard sign shall be the same size as the original, approximately five feet tall by eight feet wide. The illuminated portion of the electronic readerboard shall not exceed 40 sq. ft.
    - (3) The sign shall have a maximum height of 14 feet above existing ground level, with a minimum height of 8 feet above existing grade.
    - (4) The sign shall only be illuminated from 7 a.m. to 8 p.m., or as further defined by the Planning Commission through the Conditional Use Permit process.
    - (5) The digital sign may not display light of excessive intensity or brilliance to cause glare or otherwise impair the vision of drivers. Digital sign light intensity exceeding the following intensity levels (nits) constitutes "excessive intensity or brilliance."

INTENSITY LEVELS (NITS)

Color	Daytime	Nighttime
Full Color	5,000	125

- (6) Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 5,000 NITS and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the City Planner.
        - (7) Each sign must have a "fail safe" that turns the screen to black in the case of malfunction."
2. Manually changed readerboards are prohibited except the following:
  - a. Gas station price signs;
  - b. An eating and drinking establishment may have one erasable sign, provided that it does not exceed six square feet in area and it does not intrude into the right-of-way.

- c. A church may have a bulletin board not exceeding ten (10) square feet in area, provided it has been approved by the Planning Commission as part of the Conditional Use.
- 3. When the angle of a double-sided sign is less than 10 degrees, only one side will be calculated in the sign area.
- 4. Signs, except as otherwise specifically allowed herein, are prohibited in the public right-of-way.
- 5. No freestanding sign shall exceed a height of fifteen (15) feet, measured from existing grade to the highest point of the sign.
- 6. No sign attached to any building shall exceed twenty (20) feet in height, or the height of the building, whichever is less.
- 7. No single sign shall exceed forty eight (48) square feet in size.
- 8. Except as otherwise allowed in this chapter, all signs shall comply with the building setback requirements.
- 9. No sign projecting from a structure or mounted on a pole shall be less than eight feet above the ground at its lowest point.
- 10. No freestanding signs shall be permitted in the public right-of-way, except as otherwise specifically allowed in this Chapter.
- 11. Signs attached to a building and projecting into a public right-of-way shall require a temporary right-of-way permit approved by the City Manager, or designate.
- 12. No sign, or portion thereof, shall be so placed as to obstruct any fire escape or human exit from any portion of a building.
- 13. The total exterior sign area for a building shall not be affected by the number of businesses located in the building. The building owner is ultimately responsible for allocating this allowed area to the businesses located therein and for insuring compliance of sign area limitations in the case of multiple businesses being located on a property.
- 14. Nuisances or Hazardous Conditions prohibited:
  - a. The illumination of signs shall be designed to eliminate negative impacts on surrounding right-of-way and properties.
  - b. No sign or light source shall create a distraction, hazard, or nuisance.
  - c. Signs shall not be used at a location or in a manner so as to be confused with, or construed to be, traffic control devices.
- 15. A Subdivision or Planned Unit Development may have one directional/identification sign at each entrance, not to exceed twenty square feet each, provided that the sign is approved by the Planning Commission as part of a Subdivision or Planned Unit Development approval. If approved by the Planning Commission, such signs may be located in the right-of-way.
- 16. A multi-family unit complex may have one directional/identification sign, not to exceed one square foot for each unit, to a maximum of twenty (20) square feet, provided that the sign is approved by the Planning Commission as part of the project approval. If approved by the Planning Commission, such signs may be located in the right-of-way.
- 17. All signs shall be securely fastened to their supporting surface or structure.
- 18. Flags and windsocks are permitted provided that:
  - a. The lowest point of the flag or windsock, when hanging in its fully relaxed condition shall be a minimum of six (6) feet above any sidewalk or driveway;
  - b. A flag or windsock with no advertising or which designates "open" or

- “closed” will not be considered in calculating the sign area.
- c. A flag or windsock which advertises a business, service, or product will be included when calculating the maximum sign allowed.
19. Other than flags and windsocks as otherwise allowed, no mechanical or moving signs shall be permitted. No sign shall contain or be illuminated by any flashing, blinking, moving, or rotating light.
  20. Attaching handbills to fences, posts, trees, buildings, or any other surface is prohibited within the City of Bandon.
  21. Murals exceeding forty-eight square feet in area shall require approval of the Planning Commission. The portions of a mural which have reference to a business, service, or product will be included when calculating the total sign area.
  22. All signs shall be of professional quality and shall be well-maintained.
  23. An eating and drinking establishment may attach to a window a menu, identical to those distributed to customers. Such a menu will not be used in the calculation of total sign area allowed.
  24. Incidental signs displayed strictly for a direction, safety, or the convenience of the public, including but not limited to signs that identify restrooms, public telephones, parking area entrances, and exits are allowed. Individual signs in this category shall not exceed two square feet in area, and shall not be considered in calculating the total sign area allowed.
  25. Public memorials, cornerstones and plaques may be allowed provided they are approved by the City.

17.90.040 Temporary Signs

- A. Temporary signs shall not be illuminated.
- B. Temporary signs and banners shall be well maintained at all times and shall be removed promptly when the approved display period has ended.
- C. One temporary sign, not to exceed four square feet in area advertising the sale, lease, or rental of a single lot or parcel may be allowed. The sign shall be removed upon sale of the property.
- D. One temporary sign per tract of land or subdivision advertising the sale of the tract, or lots in the tract may be allowed. The sign shall not exceed thirty-two square feet in area and shall be a minimum of twenty feet from the right-of-way. The sign shall be removed upon sale of the property.
- E. Signs on a construction site where a valid Zoning Compliance and building permit is in effect, designating the contractor, architect, project manager, lending institution and other firms relating to the construction, may be allowed, provided that all such signs shall be contained within a single twenty square foot rectangle.

- F. For the purposes of determining the allowable location of temporary signs where the actual right-of-way/property line is undetermined, the right-of-way/property line shall be considered to be a line two feet from the outside edge of the sidewalk or, where no sidewalk is present, a line six feet from the edge of the pavement.
- G. In addition to the signs specifically allowed pursuant to this section, temporary, on-site signs may be allowed by the City Manager or his designate, provided the total allowance for any property shall not exceed 90 calendar days per year.
- H. In addition to the on-site sign allowance, one additional off-site sign may be permitted for each commercial use at the discretion of the City Manager by permit:
  - 1. An off-site sign shall be located no farther than two hundred (200) feet from the commercial use to which it refers, and must be located within the same zone as the commercial use to which it refers;
  - 2. The maximum height of an off-site sign shall be three (3) feet;
  - 3. The maximum area of an off-site sign shall be four (4) square feet;
  - 4. No off-site sign shall be located in the City right-of-way except one temporary directional sign to indicate availability of fresh fish and/or seafood for sale in the water zone may be allowed along Highway 101.
  - 5. No off-site sign shall be allowed to be displayed for more than 90 calendar days per calendar year.

17.90.050 Political Signs

- A. Political signs advertising a candidate or a ballot issue shall be allowed only on private property and with the owner's written permission, during a political campaign for a period of sixty days prior to the election in which such candidates or issues are to be voted upon, and shall be removed within 2 days after the election.
- B. An individual sign shall not exceed four square feet in area.
- C. For the purposes of determining the allowable location of political signs where the actual right-of-way/property line is undetermined, the right-of-way/property line shall be considered to be a line two feet from the outside edge of the sidewalk or, where no sidewalk is present, a line six feet from the edge of the pavement.

17.90.060 Non-conforming Signs and Structures

- A. A non-conforming sign may not be modified in any way that results in a more non-conforming condition.
- B. Maintenance and repairs such as cleaning, painting, or replacing damaged structural portions of a non-conforming sign are allowed.
- C. If a nonconforming sign is replaced by a new sign, the new sign shall conform to the requirements of this chapter.
- D. If a sign is discontinued for a period of one year, the new sign will conform to the requirements of this chapter.
- E. Any sign poles, frames or other means of support for a sign no longer in use shall be removed prior to approval of any new sign.
- F. If a sign is destroyed or removed by any cause, it shall be replaced by a conforming sign.

17.90.070 Residential Zones (R-1, R-2,)

- A. Permitted Signs
  - 1. One non-illuminated nameplate, not to exceed two square feet in area.
  - 2. House numbers.

17.90.080 Controlled Development Zones (CD-1, CD-2, CD-3)

A. Permitted Signs for Residential Uses

1. One non-illuminated nameplate, not to exceed two square feet in area.
2. House numbers.

B. Permitted Signs for Commercial Uses

1. A commercial sign shall require approval by the Planning Commission through the Conditional Use process.
2. Total area of all exterior sign allowed on the property shall not exceed one square foot for each two linear feet of street frontage.
3. A sign shall be set back ten (10) feet from any adjoining lot used for residential purposes.

17.90.090 Controlled Development Residential Zones (CD-R1, CD-R2)

A. Permitted Signs

1. One non-illuminated nameplate, not to exceed two square feet in area.
2. House numbers.

17.90.100 Old Town (C-1) and Architectural Review Overlay (AR)

A. Exterior Signs Requiring a Certificate of Appropriateness. Exterior signs within the Architectural Review Overlay Zone of this section must receive a COA before installation or before any change in design, size, color(s), or location is made. Signs on properties in the C-2 and LI zones shall be exempted from the architectural review overlay zone sign regulations, but shall be subject to the sign regulations applicable to the underlying zone.

1. Criteria. In considering applications for COA's, signs shall be reviewed for their compliance with the following requirements:
  - a. Graphics: These shall be clear, legible and of a professional quality.
  - b. Colors: Colors used for exterior signs shall be from the previously approved color chart or receive approval from the Planning Commission through the ARB application process.
    - (1) Each building shall be allowed a total exterior sign area for the front or facade of the building equal to ten (10) percent of the facade area of the building.
    - (2) On the side and back exterior walls of buildings, signs equaling five percent of the wall's area can be permitted. These signs must be flush-mounted parallel to the wall.
  - c. Internally illuminated signs are prohibited. Neon tubing signs shall not be considered internally illuminated signs.
  - d. No part of any sign shall extend above the roofline or the top of the facade or marquee, whichever is higher.
  - e. In the ARB overlay a free-standing sign shall not exceed fifteen (15) feet above grade.
  - f. Trademarks or symbols: Signs which display the symbol, slogan or trademark of any product or business other than the business or businesses occupying the site are prohibited.
  - g. A nameplate for a residence not exceeding one square foot in area is allowed and shall not require a Certificate of Appropriateness.

17.90.110 General Commercial (C-2)

A. Permitted Signs

1. In the case of a property with a single street frontage, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet of lot frontage on that street.
2. In the case of a property on a corner, or with multiple street frontages, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet along the primary street (which shall be determined by the property owner), plus one (1) square foot for each two (2) linear feet along the other secondary street(s), provided those additional signs are located along the respective secondary street(s).
3. One temporary directional sign to indicate availability of fresh fish and/or seafood for sale in the water zone may be allowed along Highway 101, provided that:
  - a. The sign does not exceed twelve square feet;
  - b. The sign has been placed on private property, with the written permission of the property owner;
  - c. The sign has been approved by the City Manager, or designate, to assure that it does not constitute a safety, pedestrian, or vehicular hazard.
4. A sign shall be set back at least ten (10) feet from an adjoining residentially zoned lot.
5. Portions of this zone located within the Architectural Review Overlay zone shall also be required to comply with the Architectural Review Overlay regulations.

17.90.120 Water Zone (W)

- A. Temporary signs and/or banners to indicate availability of fresh fish and/or seafood for sale may be allowed on individual water craft provided that the sign or banner does not exceed twenty-four square feet in size.

17.90.130 Marine Commercial (C-3)

A. Permitted Signs

1. In the case of a property with a single street frontage, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet of lot frontage on that street.
2. In the case of a property on a corner, or with multiple street frontages, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet along the primary street (which shall be determined by the property owner), plus one (1) square foot for each two (2) linear feet along the other secondary street(s), provided those additional signs are located along the respective secondary street(s).
3. A sign shall be set back at least ten (10) feet from an adjoining residentially zoned lot.
4. Portions of this zone located within the Architectural Review Overlay zone shall also be required to comply with the Architectural Review Overlay regulations.

17.90.140 Light Industrial (LI), Heavy Industrial (HI), and Woolen Mill Overlay (WM)

A. Permitted Signs

1. In the case of a property with a single street frontage, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet of lot frontage on that street.
2. In the case of a property on a corner, or with multiple street frontages, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet along the primary street (which shall be determined by the property owner), plus one (1) square foot for each two (2) linear feet along the other secondary street(s), provided those additional signs are located along the respective secondary street(s).
3. A sign shall be set back at least ten (10) feet from an adjoining residentially zoned lot.
4. Portions of this zone located within the Architectural Review Overlay zone shall also be required to comply with the Architectural Review Overlay regulations.



## Chapter 17.92-

### CONDITIONAL USES

#### Sections:

- ~~17.92.010 — Authorization to grant or deny conditional uses.~~
- ~~17.92.020 — Authorization to impose conditions.~~
- ~~17.92.030 — Existing uses.~~
- ~~17.92.040 — Approval standards for conditional uses.~~
- ~~17.92.050 — Conditional use cannot grant variances.~~
- ~~17.92.060 — Application for a conditional use.~~
- ~~17.92.070 — Major modifications to approved plans.~~
- ~~17.92.080 — Minor modification(s) of a conditional use permit.~~
- ~~17.92.090 — Standards governing conditional uses.~~
- ~~17.92.100 — Time limits on meeting physical improvement requirements and conditions.~~

#### ~~17.92.010 — Authorization to grant or deny conditional uses.~~

~~Conditional uses are those which may be appropriate, desirable, convenient or necessary in the zoning district in which they are allowed, but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed. Applications for uses designated in this title as conditional uses may be granted, granted with modifications or denied by the planning commission in accordance with the standards and procedures set forth in this chapter.)~~

#### ~~17.92.020 — Authorization to impose conditions.~~

~~In approving an application for a conditional use or the modification an existing and functioning conditional use, the city may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which the city considers necessary to assure that the use is compatible with other uses in the vicinity and to protect the city as a whole. These conditions may include but are not limited to:~~

- ~~A. — Changing the required lot size or yard dimensions;~~
- ~~B. — Limiting the height of the building(s);~~
- ~~C. — Controlling the location and number of vehicle access points;~~
- ~~D. — Requiring additional right-of-way areas or changing the street width;~~
- ~~E. — Requiring public improvements, including, but not limited to streets, sidewalks, sewer and water line extensions, and bike paths;~~
- ~~F. — Changing the number of off-street parking and loading spaces required;~~
- ~~G. — Limiting the number, size and location of signs;~~
- ~~H. — Requiring diking, fencing, screening or landscaping to protect adjacent or nearby property;~~
- ~~I. — Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;~~
- ~~J. — Limiting the hours, days, place and manner of operations;~~
- ~~K. — Limiting or setting standards for the location and intensity of outdoor lighting;~~
- ~~L. — Setting requirements on the number, size, location, height and lighting of signs;~~
- ~~M. — Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.~~

~~17.92.030 — Existing uses.~~

~~In the case of a use existing prior to the effective date of the ordinance codified in this title and which is classified in this title as a conditional use, any alteration of the structure shall conform with the requirements dealing with conditional uses.~~

~~17.92.040 — Approval standards for conditional uses.~~

~~The approval of all conditional uses shall be consistent with:~~

- ~~A. The comprehensive plan;~~
- ~~B. The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit;~~
- ~~C. That the site size and dimensions provide adequate area for the needs of the proposed use;~~
- ~~D. That the site size and dimensions provide adequate area for aesthetic design treatment to mitigate possible adverse effect from the use of surrounding properties and uses;~~
- ~~E. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;~~
- ~~F. All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant;~~
- ~~G. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the permitted uses listed in the underlying zoning district;~~
- ~~H. All other requirements of this title that apply.~~

~~17.92.050 — Conditional use cannot grant variances.~~

~~A conditional use permit shall not grant variances to the regulations otherwise prescribed by this title. A variance application may be filed in conjunction with the conditional use permit by filing an application with the city using forms prescribed for that purpose.~~

~~17.92.060 — Application for a conditional use.~~

~~The applicant for a conditional use proposal shall be the recorded owner of the property or an agent authorized in writing by the owner. They may initiate a request for a conditional use permit or the modification of an existing, functioning conditional use permit by filing an application with the city using forms prescribed for that purpose.~~

~~In addition, the following shall be supplied by the applicant:~~

- ~~A. Twelve (12) copies of the site development plan(s) drawn to scale and necessary data or narrative which explains how the development conforms to the standards;~~
- ~~B. The required fee;~~
- ~~C. The conditional use plan, data and narrative shall include the following:~~
  - ~~1. Existing site conditions;~~
  - ~~2. A site plan for all proposed improvements;~~
  - ~~3. A grading plan;~~
  - ~~4. A landscape plan;~~
  - ~~5. Architectural elevations of all structures;~~
  - ~~6. A sign plan;~~
  - ~~7. A copy of all existing and proposed restrictions or covenants;~~
- ~~D. In the case where any or all of the above are unnecessary, as in the case of a change of~~

use in an existing structure, the planning director shall determine which items in subsection (C)(1) through (7) of this section will not be required for application. The planning commission may request additional items if they determine that these additional items are necessary to understand and make a decision on the application.

~~17.92.070 Major modifications to approved plans.~~

- ~~A. An applicant may request approval of a modification to an approved plan by:~~
- ~~1. Providing the planning director (director) with five copies of the proposed modified conditional use plan;~~
  - ~~2. For all exhibits larger than eleven (11) inches by seventeen (17) inches, twelve (12) copies are required;~~
  - ~~3. Providing a narrative addressing the proposed changes as listed in subsection B of this section;~~
- ~~B. The director shall determine that a major modification has resulted if one or more of the changes listed below have been proposed:~~
- ~~1. A change in land use;~~
  - ~~2. An increase in dwelling unit density;~~
  - ~~3. A ten (10) percent change in the ratio of the different types of dwelling units to the number of units;~~
  - ~~4. A change in the type of commercial or industrial structures;~~
  - ~~5. A change in the type and location of access ways and parking areas where off-site traffic would be affected;~~
  - ~~6. An increase in the floor area proposed for nonresidential use by more than ten (10) percent where previously specified;~~
  - ~~7. A reduction of more than ten (10) percent of the area reserved for common space and/or usable open space;~~
  - ~~8. A reduction of specified setback requirements by more than twenty (20) percent;~~
  - ~~9. An elimination of project amenities by more than ten (10) percent where the plan specified they were to be provided, such as:~~
    - ~~a. Recreational facilities;~~
    - ~~b. Screening; or~~
    - ~~c. Landscaping provisions;~~
  - ~~10. A ten (10) percent increase in the approved density; or~~
  - ~~11. Any modification to conditions imposed at the time of the approval of the conditional use permit.~~
- ~~C. Upon the director's determination that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application for a conditional use permit.~~
- ~~D. The director's decision may be appealed as per Section 17.124.010.~~

~~17.92.080 Minor modification(s) of a conditional use permit.~~

- ~~A. Any modification that is not within the description of a major modification as provided in Section 17.92.070(B) shall be considered a minor modification.~~
- ~~B. A minor modification shall be approved, approved with conditions or denied following the director's review based on the findings that:~~
- ~~1. No provisions of this title will be violated; and~~
  - ~~2. The modification is not a major modification.~~
- ~~C. Procedures for the notice of the director's decision and the appeal process are contained in the zoning ordinance. The decision may be appealed as per Section~~

~~17.124.010. (Amended during 2000 codification.)~~

~~17.92.090 Standards governing conditional uses.~~

~~A conditional use shall comply with the standards and purpose of the zone in which it is located except as these standards may have been modified in authorizing the conditional use or as otherwise provided as follows:~~

- ~~A. Yards. In any zone, additional yard requirements may be imposed.~~
- ~~B. Height Exception for Churches and Governmental Buildings. In any zone where offered as a conditional use, a church or governmental building may be built to exceed the height limitation of the zone in which it is located to a maximum height of fifty (50) feet if the total floor area of the building does not exceed one and a half times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.~~
- ~~C. Limitation on Access to Property. The planning commission may limit vehicle access from a conditional use to a street.~~
- ~~D. Signs. See Chapter 17.90 Signs~~
- ~~E. Church. A church may be authorized as a conditional use after consideration of the following factors:~~
  - ~~1. Sufficient area provided for the building;~~
  - ~~2. Required yards and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses with additional lot area required);~~
  - ~~3. Location of the site relative to the service area of the church;~~
  - ~~4. Probable growth and growth needs;~~
  - ~~5. Site location relative to land uses in the vicinity and adequacy of access from principal streets, together with the probable effect on traffic volumes of abutting and nearby streets.~~
- ~~F. Public Utility or Communication Facility. A public utility or communication facility such as a substation, pumping station, radio or television studio or transmitter, or a utility transmission line shall require an easement or right-of-way twenty (20) feet or more wide. In considering an application for a public utility facility, the planning commission 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 uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping station and similar gear shall be so located, designed and installed as to minimize their effect on scenic values.~~
- ~~G. Trailer, Recreational Vehicle, Mobile home or Manufactured Home Park (herein referred to as "park"). A park may be permitted as a conditional use provided it meets the requirements of the State of Oregon. In addition, the following minimum standards shall apply:~~
  - ~~1. Parking Space Requirement. A parking space shall be provided for each site in the park. In addition, guest parking spaces shall also be provided in every park within two hundred (200) feet of the sites served and at a ratio of one parking space for each two sites. Parking spaces shall have durable and dustless surfaces adequately maintained for all weather use and properly drained.~~
  - ~~2. Fencing and Landscaping. A sight-obscuring fence or hedge not less than six feet high shall enclose the park except at points of ingress and egress and at vision clearance areas. A build-up fence, as distinguished from an evergreen hedge, shall be so located as to conform to front and side yard requirements of~~

the zone and suitable landscaping shall be provided in the required yards.  
3. ~~Area. The minimum area for a park shall be forty thousand (40,000) square feet. The average area of sites within a park shall be not less than two thousand (2,000) square feet, exclusive of washrooms, recreation areas, roadways and other accessory facilities. No site shall be less than one thousand six hundred (1,600) feet in area.~~

H. ~~Multifamily Housing. When considering a conditional use for multifamily housing, conditions shall not be placed which would exclude needed housing, unnecessarily decrease density, or allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delays.~~

I. ~~Drive Up Uses. Drive up uses are a conditional use in the general commercial zone. All drive up uses shall comply with the following provisions:~~

- ~~1. All drive up uses shall provide at least two designated parking spaces immediately beyond the service window to allow customers requiring excessive waiting time to receive service while parked.~~
- ~~2. All drive up uses shall provide a means of egress for vehicular customers who wish to leave the waiting line.~~
- ~~3. The grade of the stacking area shall be flat or downhill to eliminate excessive fuel consumption.~~
- ~~4. The drive up shall be designed to provide natural ventilation for dispersal of exhaust fumes.~~

J. ~~Bed and Breakfasts and Bed and Breakfast Inns. Bed and breakfasts and bed and breakfast inns are conditional uses in the CD-1 and CD-2 zones and they shall comply with all of the provisions pertaining to vacation rentals as listed in subsection K of this section.~~

K. ~~Vacation Rental Dwellings. Vacation rental dwellings (VRDs) are a conditional use in the CD-1 and CD-2 and CD-3 zones, and are subject to the requirements of this chapter. Conditional use permits are a discretionary decision by the City subject to review by the Planning Commission. VRD's are not an outright permitted use in the CD zones.~~

~~All vacation rental dwelling shall comply with the following provisions.~~

- ~~1. The single family detached dwelling proposed for the VRD shall be at least three years old, calculated from the date of issuance of a certificate of occupancy;~~
- ~~2. Less than 30% of the single family detached dwellings within 250 feet of the subject property, and located in a zone where VRD's are allowed, are VRD's;~~
- ~~3. In the CD-1 zone, single family detached dwellings proposed for VRD status may be located only in the VRD overlay zone as indicated on the attached map. VRD's are allowed as a conditional use in all areas of the CD-2 and CD-3 zones;~~
- ~~4. The VRD Conditional Use Permit is valid for the named applicant of record and is not transferable to a new applicant. Upon change in named applicant due to sale, transfer, or other reason, the CUP shall become null and void. A new applicant shall apply for a new conditional use permit;~~

~~5. Tsunami Preparedness — all VRD's shall post the Bandon Tsunami Evacuation~~

Route map in a conspicuous location within the dwelling;

6. ~~No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor is emitted from the VRD than a normal neighborhood dwelling;~~
7. ~~VRD's without private beach access shall provide written permission from all persons with an interest in a private beach access to be used by the VRD or positive action to notify renters of the location and required use of public beach access points shall be taken;~~
8. ~~VRD's using a joint access driveway shall provide evidence that all other owners of property utilizing the private access agree to the proposed vacation rental dwelling using the private access;~~
9. ~~VRD's will be maintained at or above the level of surrounding dwellings in the neighborhood, including landscaping, signage and exterior maintenance;~~
10. ~~VRD's shall have one off-street parking space for each bedroom in the VRD, but in no case have less than two off-street parking spaces. A bedroom is defined as an enclosed sleeping area with a built-in closet. Approved off-street parking areas shall be available to accommodate full occupancy of the VRD without the use of on-street parking;~~
- 
11. ~~Evidence shall be provided ensuring that there is regular garbage removal from the premises;~~
12. ~~There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. The name and contact information of the designated local management person shall be kept on file in the Police Department and Planning Department. The owner or management person shall be available by phone and physically able to respond to the VRD within a reasonable time period;~~
13. ~~Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;~~
14. ~~If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and rental documentation, the VRD permit becomes null and void with no further proceedings;~~
15. ~~Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people. The Planning Commission shall determine the maximum occupancy of the VRD based upon bedrooms, parking, overall home floor plan and site plan, and other factors determined by the Commission based upon neighborhood characteristics outlined in item 6 above and others deemed significant. The occupancy determined by the Planning Commission may be less than the maximum allowed~~

~~16. VRD's require a conditional use permit (CUP). All criteria for a CUP must be addressed and included as part of the application materials. The applicant shall also address the surrounding neighborhood and provide information how the proposed VRD is appropriate given the specific characteristics of the neighborhood.~~

~~17. The applicant shall provide an annual report to the Bandon Planning Department showing compliance with all conditions and ordinance requirements. Failure to provide such report shall result in revocation of the Conditional Use Permit.~~

~~18. Smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.~~

~~17.02.100 Time limitation~~

~~A. A conditional use permit shall become void one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permit activity is being regularly conducted on the premises.~~

~~B. The Planning Commission may extend a use permit for an additional period of one (1) year, subject to the requirements of this title.~~

~~C. A conditional use permit shall become void if the use is discontinued for a period of one year.~~

~~17.02.110 Violation of conditions~~

~~The Planning Commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Sections 17.120.080 through 17.120.160. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a conditional use permit.~~

## Chapter 17.94

### Commercial Design Standards

#### Sections:

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17.94.090	Site Design, Building Design, Massing, Materials
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#### 17.94.010 Purpose

The purpose of this chapter is to promote growth management and the planning of development to protect resources and maximize Bandon's economic assets and advantages. Commercial Design Standards are intended to reflect Bandon's unique historic landscape and architectural character while encouraging the visual quality and continuity of commercial development. The standards will provide greater visual design interest, pedestrian-oriented site design, compatibility with uses and development on adjacent land, and a greater likelihood of building reuse. As future growth and urbanization occur, certain measures will be required to preserve the quality of life of Bandon's residents and the City's attraction to visitors.

#### 17.94.020 Scope

The Commercial Design Standards shall apply to the following:

- A. All commercial development in any Light Industrial (LI) zone abutting Highway 101, and in the Commercial 2 (C-2), subject also to the provisions of Subsections C, D, E, and F below.
- B. All development on Light Industrial (LI) zoned property within the area bounded on the north by 2<sup>nd</sup> Street SE/Highway 101, on the south by 6<sup>th</sup> Street SE, on the west by Elmira Avenue SE, on the east by Grand Avenue SE, or the extended rights-of-way of those streets, subject also to the provisions of Subsections C, D, E, and F below.
- C. New construction of commercial buildings or groups of buildings exceeding 2,500 square feet of gross floor area.
- D. New construction of auto or equipment dealerships, auto service stations, and fast food restaurants of any footprint size.
- E. Buildings less than 5,000 square feet, and existing at the time this ordinance is adopted, are exempt from these requirements. However, this chapter shall apply to additions to these existing buildings which would result in a building greater than 5,000 square feet.
- F. For the purposes of this chapter the total square footage of buildings, or groups of commercial buildings less than twenty apart, which are served by a single or connected parking lot shall be calculated as one building.

#### 17.94.030 Pre-application



- A. Developers of buildings affected by this section shall meet with City Planning Staff in a pre-application review. 17.94.040 General Provisions
- A. These Design Standards include, but are not limited to:
  - 1. Landscaping,
  - 2. Building design, mass, scale, use of materials,
  - 3. Lighting.
- B. Dumpsters, trash enclosures, and other appurtenant structures shall be screened with landscaped areas or constructed of materials and finishes which are consistent with the main building.

17.94.050 Non-conforming Buildings

- A. If an existing building becomes non-conforming as a result of the adoption of these standards it may not be structurally modified unless the modification includes elements which result in a more conforming building.
- B. The square footage of the original non-conforming building may be increased a maximum of 20% if the modification includes elements which result in a more conforming building.
- C. If the square footage of a non-conforming building is increased more than 20% the resulting building, parking lot and all appurtenant structures shall conform to this chapter.

17.94.60 Landscaping

- A. General:
  - 1. All landscaping plans shall be approved by the approving authority and installed and subsequently maintained in good condition and in perpetuity by the owner of the property. Maintenance shall include, but not be limited to, watering, pruning, trimming, mowing, debris and weed removal, and if necessary replanting or replacement of failed landscape elements. Failure to maintain the landscaping in good condition shall be considered a nuisance and subject to citation to Municipal Court under Section 8.08 of the Bandon Municipal Code.
  - 2. Building facades which face a street or sidewalk, shall have a four foot wide landscaping strip separating the building from the street and/or sidewalk. This section shall not apply to building facades separated from a street or sidewalk by a parking lot.
  - 3. Landscape density shall be uniform throughout the site and include site amenities such as focal points, public trash receptacles, low wattage lighting, and water features, for areas around a building over 2,500 square feet.
  - 4. Trees and shrubs used shall be selected from varieties compatible with the Southern Oregon Coast climate and which do not have destructive root systems which could damage either buildings or paved surfaces.
  - 5. Trees shall be planted landscaped areas such that the tree trunk is at least 3 ft. from any curb or paved area.
  - 6. The landscaped area shall be planted with shrubs and/or living ground cover to assure 50% coverage within 1 year and 90% coverage within 5 years. (Landscaped area is either covered with low lying plants or overhung by the branches of shrubbery).
  - 7. All bare earth shall be covered with bark, mulch, landscape rock, or other similar landscaping material to prevent dust and soil erosion.
  - 8. Landscaping shall conform to the vision clearance standards of the underlying

zone.

B. Screening

1. Dense landscaping and/or architectural treatment shall be provided to screen features such as storage areas, trash enclosures, transformers, generators, propane tanks, and other appurtenant structures.
2. Features used to screen electrical equipment shall be approved by the electric department.
3. Where property abuts a residential zone, a fence, a minimum of six feet in height shall be installed on the property line to minimize adverse effects of the development on neighboring residences.
4. Perimeter fencing, security fencing, or gateways shall be constructed of materials which are compatible with the design and materials used throughout the project.
5. Razor wire and electric fencing, are prohibited.
6. Chain link fencing, with slats, may be allowed provided it is used as a screening element and the slats are a material consistent with the main building.
7. All rooftop mechanical equipment, including satellite or other telecommunications equipment, shall be screened from public view at building grade.

17.94.070 Lighting

- A. Night lighting and security lighting shall be shielded to ensure that there is no off-site glare or skyward illuminations.
- B. Parking lot and landscape lighting shall be low to the ground, to reduce glare and illuminate all pedestrian walkways.
- C. Light standards (poles) shall not exceed the height of the building at any time and shall not exceed 14 ft. in height along pedestrian pathways.
- D. All other outdoor light fixtures emitting 2,050 lumens or more shall be shielded as follows:
  1. Within 50 ft. of the property boundary, light fixtures shall be full-cutoff.
  2. All other outdoor lighting fixtures shall be semi-cutoff or full-cutoff.
- E. Location and type of lighting shall be submitted in a lighting plan.

17.94.080 Parking Lots

- A. General:
  1. Perimeter landscape strips, not less than five feet in width, shall be required for all parking lots in order to screen and/or buffer the parking lot from abutting streets or residential areas. Perimeter landscaping shall consist of plants, a minimum of two feet in height and/or trees a minimum of five feet in height and spaced no more than 20 feet apart.
- B. Parking lots with more than 40 spaces:
  1. Must provide landscaped islands and walkways which break up the visual expanse of blacktop and provide safe pedestrian areas.
  2. For every parking space there shall be 20 sq. ft. of landscaping within the parking lot. Perimeter landscaping or landscaping required for visual screening of buffering shall not be included in the 20 sq. ft. requirement. Landscaping required for walkways shall be included in this calculation.
  3. There shall be a minimum of one tree for every 250 square feet of landscape.

17.94.090 Site Design, Building Design, Massing, Materials

A. Buffering

1. In the event of a common property line, a side or rear yard abutting a residential zone shall be at least twenty (20) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.

B. Connectivity

1. The site design must provide direct vehicular connections and safe street crossings to abutting properties.

C. Pedestrian walkways.

In addition to the section on parking lot landscaping, the following shall apply:

1. Continuous pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all retail buildings on the site.
2. Walkways shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such walkways shall be located at least 4 ft. from the facade of the building with planting beds in between facade and the walkway for foundation landscaping, except where features such as covered passageways or entryways are part of the facade.
3. Pedestrian walkways provided in conformance with 17.94.090, C, 2, above shall provide weather protection features such as awnings or covered passageways within 30 ft. of all customer entrances.
4. The site design shall provide convenient pick-up and drop-off areas for cars and transit vehicles.

D. Building Facades

1. Front and publicly visible building facades greater than 50 ft. in length, measured horizontally, shall incorporate architectural projections or recesses having a depth of at least three percent (3%) of the length of the facade and extending for at least 20 percent (20%) of the length of the facade. Such architectural features shall be incorporated into exterior wall design at least every 50 horizontal feet.
2. Facades facing a street shall have covered passageways, windows, columns, awnings or other such features along at least 60 percent (60%) of their horizontal length.
3. Windows, when used as a design feature:
  - a) The size and total area of required windows shall be determined by the facade area of the building.
  - b) Building facades facing a street shall incorporate window areas equal to a minimum of ten percent of the facade area.
  - c) When a building provides multiple storefronts or entry ways to individual businesses, each storefront space shall have window areas equal to 10% of the business facade.
4. Facades must include a repeating pattern that includes at least three of the following elements, one of which must repeat horizontally:
  - a) Color change;
  - b) Texture change;
  - c) Material change;
  - d) Architectural or structural bays, provided through a change in plane of at least 12 inches in width, such as an offset, reveal or projecting rib. All elements shall repeat at intervals no more than 30 feet horizontally and vertically.

E. Entrances

1. All public entrances shall be covered. The minimum width of coverings shall be the width of the entry doors and shall be a minimum of ten feet in length.
2. Where multiple businesses will be located within the same building, the main customer entrance to the building shall conform to the requirements of this Section.
3. Delivery and service bays shall be located in rear of the building, unless the approving authority determines the configuration to be impractical. Ingress and egress of service drives shall be clearly posted.
4. At least one facade shall feature a customer entrance. The entrance shall be on a facade that faces a street with pedestrian walkways or main parking lot. All entrances shall be architecturally prominent and clearly visible from the street.
5. Each establishment shall have clearly visible customer entrance areas. The design of facades with customer entrances, as well as those abutting public streets, shall be enhanced with a least one feature from a minimum of three of the following groups:
  - a) Group 1
    - 1) Canopies
    - 2) Awnings
    - 3) Porticos
    - 4) Overhangs
  - b) Group 2
    - 1) Recesses/projections
    - 2) Architectural details, such as tile and moldings, which are integrated into the building and design
    - 3) Windows and/or display windows
  - c) Group 3
    - 1) Covered walkways
    - 2) Arches
  - d) Group 4
    - 1) Raised corniced parapets over entrances
    - 2) Peaked roofs
  - e) Group 5
    - 1) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting
    - 2) Public plazas

F. Materials and Colors

1. More than 75% of exterior building materials shall include brick, fire resistant cedar shakes and shingles, beveled or ship-lap or other narrow-course horizontal boards or siding, vertical board and batten siding, durable stucco, rock, stone, or tinted and textured concrete masonry units. Other materials may be permitted if approved by the approving authority.
2. Visible exterior building materials shall not include smooth-faced concrete block, smooth-faced tilt-up concrete panels, or unarticulated board siding (e.g., T1-11 siding, plain plywood, sheet pressboard) unless approved by the approving authority.
3. If approved by the approving authority, building trim and accent areas may feature primary or other bright colors.

G. Roofs

1. Roofs shall have no less than two of the following features:
  - a) Parapets, the average height of which shall not exceed 15 percent (15%) of the height of the supporting wall, unless greater heights are necessary to screen HVAC equipment. Parapets shall not at any point exceed one-third of the height of the supporting wall. Parapets shall feature three dimensional cornice treatment and shall not be of a constant height for a distance greater than 150 ft.
  - b) Overhanging eaves or cornices, extending at least 3 ft. past the supporting walls.
  - c) Sloping roofs with three or more slope planes. Sloping roofs shall:
    - 1) not exceed the average height of the supporting walls; and
    - 2) have an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run; and
    - 3) have a vertical rise less than or equal to one foot for every one foot of horizontal run.

H. Auto Dealerships

1. Special attention shall be directed toward the site landscaping which is visible from the street. Trees to provide shade and visual relief shall be located within the dealership (when reasonably practical with auto display) as well as on the site perimeter. The outdoor vehicle display parking areas may remain open, if balanced by substantial landscaping and tree planting on other visually prominent areas of the site.
2. The service area and/or service bays shall be screened or sited so they are not visible from the street.
3. Vehicles under repair shall be kept inside a building or in an area which is screened from views from the street.
4. Service areas shall provide adequate queuing space that does not impede vehicle circulation through the site or result in vehicles stacking into the street.

I. Fast Food Restaurants

1. Highly contrasting color schemes are prohibited. A new free-standing restaurant building shall be sited and designed to be compatible with the character of the surrounding neighborhood. If the restaurant will occupy a pad within a shopping center, the building shall be designed to be consistent with the theme or design of the center.
2. Free standing restaurant buildings shall be designed and detailed consistently on all sides.
3. Outdoor seating areas, play equipment, and perimeter fencing shall all be reviewed by the appropriate authority for compatible and attractive design that is integrated with the main building architecture.
4. Cooking odors shall be eliminated to the extent feasible by installation of best available control technology. Project applications shall include information on proposed ventilation systems and odor scrubbing technology to be used.
5. Businesses shall comply with the sign ordinance limitations.

J. Auto Gas/Service Station Guidelines

1. Auto service station site development standards include:
  - a) Site area minimum if 15,000 square feet.
  - b) Minimum of 15% if site to be landscaped (as specified in Section 17.94.060).

- c) Maximum of 35% of street frontage devoted to curb cuts with remainder in landscaping
  - d) Maximum of 18% of site with canopy cover.
  - e) Pump island design with a minimum of two vehicle stacking behind vehicle parked at the pump closest to the exit and/or entrance driveway.
2. The site design for projects located at street corners shall provide some structural or strong design element to anchor the corner. This can be accomplished using a built element or with strong landscaping features.
  3. The on-site circulation pattern shall include adequate driving space to maneuver vehicles around cars parked at the pumps, with special attention to the circulation of vehicles not involved in the purchase of fuel.
  4. The amount of unrelieved pavement or asphalt area on the site shall be limited through the use of landscaping, contrasting colors and banding or pathways of alternate paver material. Extensive expanses of light grey concrete pavement shall be avoided.
  5. Building architecture shall be designed to provide an attractive appearance which is compatible with the surrounding area. Prefabricated buildings shall be substantially modified and embellished to create a project which meets the community standards. All architectural details should be related to an over all architectural theme.
  6. Separate buildings (canopy, carwash, cashiers booth, etc.) on the site shall have consistent architectural detail and design elements to provide a cohesive project site.
  7. Tall (13 feet or taller) tank vents shall be completely screened or incorporated into the building architecture.
  8. A car wash which is incorporated into the project shall be well integrated into the design. The car wash opening shall be sited so that it is not directly visible as the primary view from the street in to the project site. The site design shall also address the issues of off-site noise exposure, provision of adequate on-site underground drainage systems to keep water off public streets and improvements, and circulation vehicle stacking.
  9. Illumination should be concentrated on specific signage. Canopies shall not be illuminated. Light fixtures shall be recessed into the canopy and no glare shall be visible from the fixture. Yard lights shall be oriented downward.
  10. Dumpsters and service areas shall be screened. The wall materials and building styles shall match those used for the station buildings.

17.94.100 Signage

See Chapter 17.90 Signs

## Chapter 17.96

### OFF-STREET PARKING AND LOADING

#### Sections:

- 17.96.010 Applicability.
- 17.96.020 Off-street parking.
- 17.96.030 Off-street loading.
- 17.96.040 General provisions for off-street parking and loading.
- 17.96.050 Design requirements for parking lots.
- 17.96.060 Completion time for parking lots.
- 17.96.070 Vehicle access points.

#### 17.96.010 Applicability.

In all zones, off-street parking and loading space shall be provided as set forth in this chapter.

#### 17.96.20 Off-street parking.

At the time a new structure is erected or enlarged or the use of an existing structure is changed, off-street parking spaces shall be provided as set forth in this section unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if it would result in less space than is required by this title. When square feet are specified, the area measured shall be the gross floor area of the building but shall exclude any space within a building devoted to off-street parking or loading. When the number of employees is specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. Parking requirements for specific uses are shown in the following table:

Table 17.96.020

### PARKING REQUIREMENTS FOR SPECIFIC USES

Use	Parking Space Requirements
A. Residential uses:	
1. Single-family dwelling	Two spaces.
2. Two- or multifamily dwelling units	Spaces equal to 1.5 times the number of dwelling units.
3. Apartment house, rooming house or boarding house	Spaces for eighty (80) percent of the guest accommodations plus one additional space.
B. Commercial/residential uses:	
1. Hotel	One space per two guest rooms plus one space per two employees.
2. Motel	One space per guest room or suite plus one additional space for the owner or manager.
3. Club or lodge	Space to meet the combined requirements of the uses

being conducted, such as a hotel, restaurant, auditorium, etc.



- C. Institutions:
1. Convalescent hospital nursing home, sanitarium rest home, or home for the aged One space per two beds for patients or residents.
  2. Hospital Spaces equal to 1.5 times the number of beds.
- D. Places of public assembly:
1. Church One space per four seats or eight feet of bench length in main auditorium.
  2. Library or reading room One space per four hundred (400) square feet of floor area per two employees.
  3. Preschool nursery or kindergarten (primary school) Two spaces per teacher.
  4. Elementary or junior high school One space per classroom plus one space per administrative employee or one space per four seats or eight feet of bench length in the auditorium or assembly room, whichever is greater.
  5. High school One space per classroom plus one space per administrative employee plus one space for each six students or one space per four seats or eight feet of bench length in the main auditorium, whichever is greater.
  6. Other auditorium or meeting room One space per four seats or eight feet of bench length.
- E. Commercial amusements:
1. Stadium, arena or indoor theater One space per four seats or eight feet of bench length.
  2. Bowling establishment without restaurant Eight spaces per alley plus one space per two employees.
  3. Bowling establishment with restaurant Ten (10) spaces per alley plus one space per two employees.
  4. Dance hall or skating rink One space per one hundred (100) square feet of floor area plus one space per two employees.
  5. Eating or drinking establishment
- F. Commercial:
1. Retail store, except as provided in subsection (F)(2) of this table
  2. Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture
  3. Bank or office (except medical and dental)
  4. Medical and dental office or clinic

One space per four hundred (400) square feet of floor area.

One space per six hundred (600) square feet of floor area.

6. Mortuaries

One space per six hundred (600) square feet of floor area plus one space per two employees.  
One space per three hundred (300) square feet of floor area plus one space per two employees.  
One space per two hundred (200) square feet of floor area.

One space per four seats or eight feet of bench length

in the chapel.

G. Industrial:

1. Storage warehouse, One space per employee.  
m a n u f a c t u r i n g  
establishment, freight  
terminal

2. Wholesale establishment One space per employee plus one space per seven  
hundred (700) square feet of patron serving area.

17.96.030 Off-street loading.

- A. Passengers. A driveway designed for a continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) pupils.
- B. Merchandise, Material or Supplies. Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to handle adequately the needs of the particular use. Loading space that has been provided for an existing use shall not be eliminated if its elimination would result in less space than is required to handle adequately the needs of the use. Off-street parking areas used to fulfill the requirements of this title shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs.

17.96.040 General provisions for off-street parking and loading.

- A. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented which show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this title to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.
- B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements for comparable uses listed.
- C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of several uses computed separately.
- D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the city in the form of deeds, leases or contracts to establish the joint use.
- E. Off-street parking spaces for dwellings shall be located on the same parcel with the dwelling. Other required parking spaces shall be located not farther than five hundred (500) feet from the building or use they are required to serve, measured in a straight line from the building.
- F. Required parking spaces shall be available for the parking of passenger automobiles of

residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

- G. Parking within required setback areas for residential uses:
  - 1. A maximum of three (3) motor vehicle parking spaces shall be allowed within the required front or street-side setback area, two (2) of which may be counted towards meeting the minimum number of required off-street parking spaces. Any such parking spaces must be located within a driveway surfaced with concrete, asphalt, gravel, or other material approved by the City.
  - 2. Motor vehicle parking within the required front or street-side setback area shall be located no closer than five (5) feet from any interior property line.
- H. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany any application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being met, including the following:
  - 1. Delineation of individual parking and loading spaces;
  - 2. Circulation area necessary to serve space;
  - 3. Access to streets and property to be served;
  - 4. Curb cuts;
  - 5. Dimensions, continuity and substance of screening;
  - 6. Grading, drainage, surfacing and subgrading details;
  - 7. Delineation of obstacles to parking and circulation in finished parking areas;
  - 8. Specifications as to signs and bumper guards;
  - 9. Other pertinent details. (Amended during 2000 codification.)

17.96.050 Design requirements for parking lots.

- A. Areas used for parking vehicles and for maneuvering shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.
- B. Except for parking in connection with dwellings, parking and loading areas adjacent to or within residential zones or adjacent to dwellings shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence or not less than five nor more than six feet in height, except where vision clearance is required.
- C. Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high and which is set back a minimum of four and one-half feet from the property line.
- D. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.
- E. A standard parking space shall be eight and one-half feet by nineteen (19) feet.
- F. Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- G. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of traffic and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service anticipated traffic. In no case shall access point of service drives to a street be less than one hundred (100) feet apart, measured from center to center. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers on street frontage not occupied by service drives.
- H. Driveways shall have a minimum vision clearance area formed by the intersection of the

driveway center line, the street right-of-way line and straight line joining said lines

through points thirty (30) feet from their intersection.

- I. All parking lots will meet requirements of the Americans with Disabilities Act.
- J. For standards not specifically cited in this title, additional dimensional standards for parking lot features shall be consistent with the most recent edition of Architectural Graphic Standards.
- K. For uses other than residential uses, one third of the required spaces may be compact spaces. Compact spaces shall be eight feet by sixteen (16) feet.
- L. For parking lots for motels, restaurants or retail businesses of more than twenty (20) spaces, five percent of the total number of spaces will be R.V. spaces at least ten (10) feet wide by thirty (30) feet long.

17.96.060 Completion time for parking lots.

Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the building inspector. If the parking space is not required for immediate use, an extension of time may be granted by the building inspector, providing a performance bond or its equivalent is posted equaling the cost to complete the improvements as estimated by the building inspector. If the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements constructed under the direction of the city.

17.96.070 Vehicle access points.

To promote public safety, the number of vehicle access points to arterial roads and highways shall be kept to a minimum. In reviewing applications for land divisions and discretionary permits, the planning commission shall limit the number of vehicular access points by requiring shared access, reserve strips, eliminating circle drives (with two access points) and taking other actions consistent with the directives of this chapter.

## ~~Chapter 17.98 OUTDOOR~~

### ~~LIGHTING~~

#### ~~Sections~~

- ~~17.98.010 Purpose~~
- ~~17.98.020 Scope~~
- ~~17.98.030 General Provisions~~
- ~~17.98.040 Lighting Adjacent to Wildlife Areas~~
- ~~17.98.050 Exceptions to the Full Cut-off Requirement~~
- ~~17.98.060 Prohibitions~~
- ~~17.98.070 Enforcement~~
- ~~17.98.080 Definitions~~
- ~~17.98.010 Purpose~~

~~Ordinance History: # 1594~~

## ~~Chapter 17.100~~

### ~~PLANNED UNIT DEVELOPMENT~~

#### ~~Sections:~~

- ~~17.100.010 Purpose.~~
- ~~17.100.015 PUD uses and density.~~
- ~~17.100.020 PUD approval process; consolidated applications authorized.~~
- ~~17.100.025 Pre-application conference and public information meeting.~~
- ~~17.100.030 Application.~~
- ~~17.100.040 Limitation on application.~~
- ~~17.100.050 Hearing procedure.~~
- ~~17.100.060 Criteria for approval.~~
- ~~17.100.070 Planning Commission action.~~
- ~~17.100.080 Modifications to standards to be authorized.~~
- ~~17.100.090 Common elements and required open space.~~
- ~~17.100.100 Postponed architectural approval and final PUD plan approval.~~
- ~~17.100.110 Engineering construction plans and improvements.~~
- ~~17.100.120 Approval of final PUD plan; approval criteria.~~
- ~~17.100.130 Limitation on new application.~~
- ~~17.100.140 Surety agreement and bond.~~

~~Ordinance History: #1634~~

#### ~~17.100.010 Purpose:~~

- ~~A. The purpose of planned unit development approach is to a greater degree of flexibility, consistency and quality in the design of urban development than would otherwise be possible under the strict requirements of this Code. These provisions are intended to promote:~~
  - ~~1. creative and imaginative design for urban development in ways that encourage community identity, consistently high quality construction, and pedestrian orientation;~~



2. ~~the preservation, restoration and integration of important natural features such as forested areas, riparian corridors and wetlands;~~
3. ~~economic and efficient use of urbanizable land through density transfer and clustering, while transitioning to the surrounding neighborhoods;~~
4. ~~a mixture of land use and housing types that are thoughtfully planned and well-designed;~~
5. ~~the preservation of views from existing developed areas, through the PUD, of scenic views and sites identified in the Comprehensive Plan.~~

~~B. Applicability.~~

~~Planned unit developments are an optional use on sites meeting the following criteria:~~

1. ~~PUDs shall be comprised of a parcel or parcels of 2 acres or greater in size.~~
  - a. ~~Planning Commission may allow a PUD on a smaller parcel if it finds that the site has unique qualities or circumstances that merit a PUD~~
2. ~~PUDs are not permitted west of Beach Loop Drive.~~

~~17.100.015 PUD uses and density.~~

~~Notwithstanding the requirements of this Title, the following uses and densities shall be permitted in accordance with this chapter:~~

~~A. Residential uses.~~

~~In all Residential (R) and Controlled Development (CD) zones, allowed uses include single-family dwellings, single-family attached dwellings, duplexes, and multi-family dwellings.~~

1. ~~Multi-family dwellings shall not comprise more than 50% of the total number of housing units within the PUD.~~
2. ~~The total number of dwelling units allowed shall be limited by the minimum lot sizes for proposed dwelling type(s) as follows:~~
  - a. ~~Single-family dwellings: 4,320 square feet~~
  - b. ~~Single-family attached dwellings: 2,600 square feet~~
  - c. ~~Duplexes: 7,200 square feet~~
  - d. ~~Multifamily dwellings: 8,400 square feet plus 800 square feet for each unit over three.~~
  - e. ~~Lot sizes may be averaged within the PUD provided that the total square footage for all lots meet the minimum required for all lots in total.~~

~~B. Commercial and public uses.~~

~~Commercial and public uses may be permitted in a PUD if such uses are integrated into the proposed development.~~

1. ~~Commercial uses may be provided in the following forms:~~
  - a. ~~Small-scale retail uses.~~
  - b. ~~Eating and drinking establishments.~~
  - c. ~~Services oriented towards residents in the PUD.~~
  - d. ~~Ground floor commercial development with upper story residential development if it meets or exceeds the purpose of this chapter and the base zone.~~
2. ~~Commercial uses shall feature neighborhood-scale design per Chapter 16.42.~~
3. ~~Public uses may be provided in the following forms:~~
  - a. ~~Schools, including nursery and/or day care centers~~
  - b. ~~Public utility or service buildings~~
  - c. ~~Public parking~~
  - d. ~~Government structures, offices or uses~~

4. ~~Cumulatively, not more than 10% of the gross acreage may be devoted to commercial and/or public uses that serve the PUD.~~

~~17.100.020 PUD approval process; consolidated applications authorized.~~

~~Approval of a PUD by the Planning Commission shall be a two-step process involving approval of a Preliminary PUD plan as the first step, and approval of a Final PUD plan as the second step. A Preliminary PUD plan shall be reviewed through Planning Commission in a public hearing per Chapter 17.120.080. A Final PUD plan shall be reviewed through an Administrative review and approval process per Chapter 17.120.050.~~

~~A. Consolidation.~~

~~Applications for development permits and other planning actions, including tentative subdivision plan, may be consolidated with an application for a Preliminary PUD plan, except applications for comprehensive plan amendments and annexations. Applications for final subdivision plat may be consolidated with Final PUD plan.~~

~~B. Limitation.~~

~~Where use is made of the planned use development process as provided in this chapter, no building or other permit shall be issued for such development or part thereof until the planning commission has approved the Preliminary PUD plan.~~

~~17.100.025 Pre application conference and public information meeting.~~

~~Prior to submission of a PUD application, the applicant shall participate in an application conference and present the draft PUD proposal for public review and comment.~~

~~A. Pre application conference.~~

~~The purpose of a pre application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this chapter, and to determine which application materials must be submitted to constitute a complete application. This conference shall be required prior to the submission of an application.~~

~~B. Public information meeting.~~

~~The purpose of the information meeting is to present the draft proposal for general information and comment, to document the nature of neighborhood concerns, and to incorporate comments where possible into the design of the PUD before it is submitted to the city. Property owners within 250 feet of the PUD shall be provided written notice of the time and place of the meeting, and a site plan showing the draft proposal, at least one week before the meeting. The meeting shall also be advertised in a local newspaper. The applicant shall be responsible for providing a list of public comments and concerns expressed at the meeting, and generally state how the issues and concerns are being addressed.~~

~~17.100.030 Application~~

~~The owner or his agent may make application for PUD approval by filing an application with the Planning Department. The application shall be accompanied by the following:~~

~~A. A filing fee in an amount established by general resolution of the city council. No part of the fee shall be refundable.~~

~~B. A current assessor's map with the boundaries of the proposed PUD identified.~~

~~C. Preliminary PUD plan. All applications shall be accompanied by a general development plan prepared in accordance with Chapter 16.12. Additionally, such plans shall include preliminary plans for the provision of public access, water and sanitary sewer service and a proposal for the PUDs operative Covenants, Conditions and Restrictions (CCRs). The applicant shall also submit one copy of the Preliminary PUD Plan which has been~~

reduced to a size suitable for photocopy reproduction.

~~D. Written documents required include:~~

- ~~1. A legal description of the total site proposed for development, including proof that the applicant owns all property to be included in the PUD.~~
- ~~2. A statement of planning objectives to be achieved by the PUD through the particular approach proposed, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.~~
- ~~3. A development schedule indicating the approximate date when construction of the PUD, or stages of the PUD, can be expected to begin and be completed.~~
- ~~4. Quantitative data for the following:~~
  - ~~a. Total number and type of dwelling units.~~
  - ~~b. Parcel sizes.~~
  - ~~c. Lot coverage of buildings and structures.~~
  - ~~d. Gross and net residential densities.~~
  - ~~e. Total amount of nonresidential construction.~~
  - ~~f. Geotechnical engineer or geologist report, as necessary.~~
  - ~~g. Other studies as recommended by the Planning Director of the Planning Commission.~~
- ~~4. Documents indicating the short and long-term rights and responsibilities of the residents and developer for construction and maintenance of open space, common areas and facilities, and building maintenance.~~

~~E. Site plan and supporting maps.~~

~~A site plan and any maps necessary to show the major details of the proposed PUD must contain the following minimum information:~~

- ~~1. The existing site conditions including:~~
  - ~~a. Contours at two-foot intervals; if slope is greater than 30%, five-foot intervals.~~
  - ~~b. Watercourses.~~
  - ~~c. Floodplains.~~
  - ~~d. Unique natural features.~~
- ~~e. Existing vegetation types.~~
  - ~~f. Identifying which features and vegetation will remain and which will be removed.~~
- ~~2. Proposed lot lines and plot designs.~~
- ~~3. The location and floor area size of all existing and proposed buildings, structures and other improvements, including:~~
  - ~~a. Maximum heights.~~
  - ~~b. Types of dwelling units.~~
  - ~~c. Density per type of dwelling unit.~~
  - ~~d. Nonresidential or commercial facilities.~~
  - ~~e. Sketches of typical structures and improvements, including exterior finishes and materials.~~
  - ~~f. Grading plan with contours at two-foot intervals.~~
- ~~4. The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, or similar public and semipublic areas.~~
- ~~5. The existing and proposed circulation system, including notation of proposed ownership (public or private) of arterial, collector, and local streets including:~~

- a. ~~Off-street parking areas.~~
- b. ~~Service areas.~~
- c. ~~Loading areas.~~
- d. ~~Major points of access to public rights-of-way.~~
- 6. ~~The existing and proposed pedestrian circulation system, including its interrelationship with the vehicular circulation system, indicating proposed treatments of points of conflict.~~
- 7. ~~The existing and proposed utility systems including but not limited to:~~
  - a. ~~Sanitary sewers.~~
  - b. ~~Storm sewers and drainage.~~
  - c. ~~Location of looped water system sized for fire protection.~~
  - d. ~~Location of underground electric, television and telephone lines.~~
- 8. ~~A general landscape plan indicating the treatment and materials used for private and common open spaces.~~
- 9. ~~Information on land areas adjacent to the proposed PUD sufficient to indicate the relationships between the proposed development and existing adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape.~~
- 10. ~~The proposed treatment of the perimeter of the PUD, including screens, fences and walls.~~
- 11. ~~Any additional information as required by the Planning Director that may be deemed necessary to evaluate the character and impact of the proposed development (Editorially amended during 2000 codification.)~~
- F. ~~Architectural elevations and footprints for all proposed buildings shall be submitted for approval by the Planning Commission as part of the Preliminary PUD Plan. An applicant for a Preliminary PUD Plan may request to postpone the submission and approval of architectural plans for proposed buildings and have such plans approved by the Planning Commission at a later time after the Preliminary PUD Plan has been submitted, subject to the approval of the Planning Commission.~~
- G. ~~When the approval of architectural plans for buildings has been postponed, the Preliminary PUD Plan shall show the building envelopes of planned buildings in conceptual form and indicate their range of height(s). Such building envelopes shall reasonably anticipate and separately define the maximum extent of the footprint and height for each building in the PUD. Conceptual architectural drawings shall also be submitted.~~
- H. ~~A narrative description of the PUD which shall cover the following:~~
  - 1. ~~The nature, planned use, future ownership and method of perpetual maintenance of all buildings and structures, access ways, land to be left in natural condition, or developed parks or open space.~~
  - 2. ~~A list of all deviations from the strict provisions of this Code by citing each provision of the Code to be deviated from, followed by a brief explanation which covers the nature and extent of the deviation.~~
  - 3. ~~A proposed development schedule which indicates the approximate date when construction of the PUD is expected to begin and end. If the PUD will be developed in phases, the development schedule for each phase shall be keyed to a plan that indicates PUD phasing boundaries.~~
  - 4. ~~Such other pertinent information shall be included as may be considered necessary by the Planning Commission to make a determination that the contemplated arrangement or use makes it necessary and desirable to adopt~~

regulations and requirements differing from those ordinarily applicable under this chapter.

- I. ~~Written findings of fact and conclusions of law which address the approval criteria listed in 17.100.060 and 17.100.080.~~
- J. ~~Documentation of the result of the public information meeting, including any changes to the proposed plans made as a result of the public information meeting.~~

17.100.040 — Limitation on application.

~~No application shall be accepted for a use which will require a change of zoning district or zoning text unless said application is accompanied by an application for a zoning amendment as set forth in Chapter 17.116.~~

17.100.050 — Review Required

~~A Planned Unit Development is a land use decision and shall be reviewed through a quasi-judicial review including public hearing conducted in accordance with BMC 17.120 and ORS 197.763.~~

17.100.060 — Criteria for Approval

~~In granting approval for a PUD, the Planning Commission shall make its decision based on the following:~~

- A. ~~The applicant has, through investigation, planning and programming, demonstrated the soundness and economic viability of the proposal, the fact that it will result in a safe, functional and attractive development, and the ability to carry out the project as proposed.~~
- B. ~~The proposal complies with transportation and public utilities requirements that are relevant to the property or properties upon which that development proposal is located and to the off-site facilities and services which are affected by the proposal, and all implementing ordinances of the city in terms of location and general development standards, except those for which a specific deviation has been approved under Section 17.100.080.~~
- C. ~~The proposal will meet or exceed the purpose of this chapter and the base zone. Any modifications to standards of the base zone shall be justified in accordance with the purpose of the base zone.~~
- D. ~~The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street rights-of-way improvements.~~
- E. ~~Proposed development will occur on building sites with less than 20% slope as certified by a surveyor.~~
  - 1. ~~Development on building sites exceeding a 20% slope may be permitted if the applicant meets or exceeds the geologic hazard criteria outlined within the base zone, ensuring that the proposal can be safely developed.~~
- F. ~~The property is, or can be supplied at the time of development, with the following types of public facilities that are determined to be sufficient in their condition and capacity to support development of the property as anticipated by the PUD:~~
  - 1. ~~Public sanitary sewerage collection facilities.~~
  - 2. ~~Public domestic water distribution facilities.~~
  - 3. ~~Storm drainage facilities.~~
  - 4. ~~Public streets.~~
  - 5. ~~Parks, recreation, or open space facilities as required in 17.100.090.~~

~~In instances where the Planning Commission determines that there is insufficient public~~

facility capacity to support the development of the whole PUD project, nothing in this criterion shall prevent the approval of an early phase of a PUD which can be supplied with adequate public facilities.

- ~~G. In addition to the requirement in 17.100.015(B), proposed commercial development shall also:~~
- ~~1. Support but not overwhelm the predominantly residential development.~~
  - ~~2. Not cause undue traffic congestion, not require additional off-street parking, and shall comply with the relevant requirements of the Transportation System Plan.~~
  - ~~3. Be attractively designed and functionally located so as to fit harmoniously into and have minimal adverse effects upon the adjacent or surrounding development.~~
- ~~H. The PUD design preserves views to the greatest extent possible from abutting residential development, through the PUD site, to scenic sites and vistas identified in the Comprehensive Plan.~~
- ~~I. Along a PUD perimeter where more than 50 percent of abutting lots are developed with existing single-family residential uses, development shall be single-family dwellings or shall provide a 20-foot setback from the PUD perimeter.~~
- ~~J. All standards listed in Section 17.100.080 (Modifications) and 17.100.090 (Common elements and open space) are met.~~
- ~~K. PUDs within the floodplain shall comply with all applicable city flood regulations and the requirements of the National Flood Insurance Program (NFIP).~~

~~17.100.070 Planning Commission action.~~

~~The Planning Commission shall act upon the application within 120 days after the application is deemed complete, excluding such time as may be required to complete any necessary zoning amendment.~~

~~A. Planning Commission options.~~

~~In taking action, the Planning Commission may approve unconditionally, approve with conditions, or deny an application as submitted. Any PUD shall be subject to all conditions imposed, and shall be excepted from the other provisions of this title only to the extent specified in said approval.~~

~~B. Time limits.~~

~~Any approval of a PUD granted hereunder shall lapse and become void unless, within 12 months after the approval of the Preliminary PUD Plan, or within such other period of time as may be stipulated by the Planning Commission as a condition of such approval, application for final PUD approval has been submitted, or construction of the PUD has begun and has been diligently pursued. The Planning Commission may impose other conditions limiting the time within which the development of portions thereof must be completed.~~

~~C. Appeal.~~

~~The decision of the Planning Commission shall be final unless it is appealed to the City Council according to the procedures set forth in Chapter 17.124.~~

~~D. Preliminary PUD Modification.~~

~~An applicant may apply for modifications to an approved preliminary PUD at any time. Modifications to approved preliminary PUD plans are subject to the process described in 17.100.120(E) and (F), but are not subject to the limitation set forth in 17.100.130.~~

~~17.100.080 Modifications to standards to be authorized.~~

~~The Planning Commission may authorize modifications to the dimensional standards of~~

the underlying zoning district, to parking lot design standards, or to the design of public streets and alleys, subject to the following limitations:

~~A. Modifications must be identified.~~

~~Each proposed modification shall be separately identified, combined with an explanation of why the modification meets one or more of the purposes of PUDs stated in 17.100.040.~~

~~B. Limits to modifications.~~

~~The nature and extent of potential Code modifications shall be limited to the restrictions and design standards listed below and pertaining to:~~

- ~~1. The size, dimension, location, position and coverage of lots.~~
- ~~2. The location, size and yards for buildings and other structures.~~
- ~~3. Off-street vehicle parking and loading.~~
- ~~4. Streets with respect to length, width, intersection standards, grades, curve radii, turnarounds, easements, street lighting, sidewalks, curbs, and driveway approaches for streets within the PUD, provided they allow adequate circulation for fire access.~~
  - ~~a. The Fire Chief shall be part of the pre-application conference and will provide written comments as to why the proposed streets will or will not provide adequate fire access based on accepted standards for fire protection and emergency access. If the Fire Chief determines that the proposed streets do not provide adequate fire access, he will make specific written recommendations to the applicant as to what modifications can be made to provide adequate fire access.~~

~~C. Setbacks.~~

~~Setbacks around the perimeter of the PUD and from existing open streets shall be no less than the setbacks of the underlying base zone.~~

~~D. Street and parking standards.~~

~~Modifications of street and parking standards proposed in a PUD shall be of an equivalent or better structural quality with respect to the amount, quality, and installation of construction materials as determined by the City Engineer. In no instance shall modifications be granted to standards that apply to collector or arterial streets.~~

~~E. Height Standards~~

~~Height structures shall not exceed the height allowed in the underlying zone, excepting that the height of any structure shall not exceed 35 feet in height as measured from finished grade to the average highest gable.~~

~~17.100.090 Common elements and required open space.~~

~~The following standards apply to common areas and open space.~~

~~A. Common areas.~~

~~Where a PUD has open spaces, parking areas or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and in no event shall any lot or unit be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:~~

- ~~1. If the PUD is a planned community under ORS Chapter 94, the declaration and plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before being recorded in the official records of Coos County.~~
- ~~2. If the PUD is a condominium under ORS Chapter 100, the declaration and plat~~

~~for the condominium shall have been recorded in the official records of Coos County, and a copy of the recorded declaration and plat shall be submitted with the Final PUD Plan. A condominium declaration and plat that has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Coos County is not required to be reviewed and approved by the Planning Commission and the Planning Commission shall have no authority under this subsection to require changes thereto.~~

- ~~3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Director for approval as part of the Final PUD Plan before being recorded in the official records of Coos County.~~
- ~~4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Nothing in this subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.~~
- ~~5. Land shown on the Final PUD Plan as a common element shall be conveyed under one of the following options:
  - ~~a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.~~
  - ~~b. To an association of owners created pursuant to ORS Chapters 94 and 100 or as otherwise created under Subsection 17.64.090(3), in which instance the City shall be made a party to the legal document which establishes the association, and such document shall provide that the association cannot be terminated or discontinued without the City's prior consent, and that the City may enforce any and all of its provisions.~~~~

~~B. Parks, open space, and community meeting space.~~

~~At a minimum, 25% of the net site acreage, after excluding existing and proposed public rights-of-way, shall be reserved as common open space, parks, trails, and/or natural areas.~~

- ~~1. No more than half of the required open space may be on sensitive lands. Natural areas shall be retained in their natural condition. If natural areas are degraded, they shall be restored and enhanced.~~
- ~~2. At least half of the required open space shall be fully improved by the developer for urban open space use (e.g., active parks, plazas, squares and landscaped boulevards) and shall be accessible by PUD residents.~~
- ~~3. Open space area may not include private streets, private yards or anything contained in private yards, public rights of way, or required parking areas.~~
- ~~4. A PUD with 25 or more residential units shall include a building or room for community meetings. A PUD with 24 or fewer residential units may include a building or room for community meetings. Any community building or room included in a PUD shall be a credit towards meeting the 25% requirement for open space in the PUD. The amount of credit shall be determined by the Planning Commission.~~

~~When the approval of architectural plans for buildings in the PUD has been postponed~~



under Subsection 17.100.030(F) at the discretion of the Planning Commission, the approval of architectural plans for buildings can occur as a one-step procedure when combined with the submission of a Final PUD Plan which incorporates the building(s) and the landscaping and other site improvements which surround the building(s).

~~17.100.110 Engineering construction plans and improvements~~

- ~~A. Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by an engineer registered in Oregon. The required engineering plans shall be submitted to and approved by the city before the start of construction.~~
- ~~B. Unless specifically authorized by the Planning Commission at the time of Preliminary PUD approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the city or other public entity to which ownership of said facilities or utilities will be conveyed.~~
- ~~C. The procedures for engineering design, plan approval and inspection, and bonding requirements shall be the same as required in 16.40.~~

~~17.100.120 Approval of Final PUD Plan; approval criteria~~

~~The following provisions shall govern the submission and approval of a Final PUD Plan:~~

~~A. Filing requirements, time extensions~~

~~Within twelve months following final approval by the Planning Commission of the Preliminary PUD plan, the applicant shall file a Final PUD plan.~~

- ~~1. The Final PUD Plan shall contain in final form all information and materials required by Section 17.100.030 unless certain items are waived by the Planning Director. However, there shall be no burden to demonstrate compliance with the criteria in Section 17.100.060 and no findings of fact and conclusions of law for these criteria are required in order for the Planning Director to approve a Final PUD Plan.~~
- ~~2. As appropriate, the Final PUD Plan shall incorporate all conditions imposed by the Planning Commission at the time the Preliminary PUD Plan was approved. In its sole discretion, and upon the written request by an applicant, the Planning Director may extend the time for filing a Final PUD Plan for one additional 12-month period or such lesser period as may be established by the Planning Director.~~

~~B. Phased PUD, time limit between phases~~

~~The Final PUD Plan may be submitted for the entire project or on a phase-by-phase basis consistent with the approved Preliminary PUD Plan.~~

- ~~1. If a Preliminary PUD Plan was not approved as a phased project, nothing in this subsection shall prevent the Planning Director from approving a Final PUD Plan in phases provided that the Final PUD Plan complies with all other requirements of this Chapter.~~
- ~~2. If the Planning Director approves a Final PUD Plan for the first phase of a PUD having approved multiple phases, such approval shall perfect the applicant's rights under this section to complete subsequent future phases. However, it is further provided that after Final PUD Plan approval for the first phase, and for each successive phase thereafter, no more than three years shall elapse between approval of phases.~~
- ~~3. If more than three years pass between the Final PUD Plan approval of any two PUD phases, the Planning Director may, without consent of the owners of the~~

- PUD, initiate action to terminate undeveloped portions of the PUD.
4. ~~Nothing in this subsection shall prohibit or limit the ability of the Planning Director to establish time periods within which substantial construction of a PUD or any phase thereof is required to occur after a Final PUD Plan has been approved.~~

~~G. Final plat for land division~~

~~Application for the approval of a Final PUD Plan may occur before, after or concurrent with the approval of a final plat for a land division by the Planning Director. However, it is further provided that no building permits shall be approved by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.~~

~~D. Final PUD Plan approval criteria~~

~~The Final PUD plan shall be approved by the Planning Director if it concludes that compliance exists with each of the following criteria:~~

- ~~1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Section 17.100.080.~~
- ~~2. The final PUD Plan is substantially consistent with the Preliminary PUD Plan, and the conditions, if any, which were attached by the Planning Commission to the approval of the Preliminary PUD Plan. An applicant may seek written clarification from the Planning Director regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being substantially consistent.~~

~~E. Preliminary PUD modification required~~

~~When substantial inconsistencies between the Preliminary and Final PUD are found to occur, these shall result in the need to approve a modification to the approved Preliminary PUD Plan. Modification to the Preliminary PUD Plan approval shall be required whenever the criteria listed in 17.100.120(D) cannot be satisfied. In no instance shall a Final PUD Plan be approved if inconsistencies with the approved Preliminary PUD Plan exist in any of the ways listed below:~~

- ~~1. The exterior boundaries of the PUD shall not change except for slight deviations which are the result of correcting boundary errors or inconsistencies that are found to exist at the time the PUD property is surveyed.~~
- ~~2. The number of housing units shall not be increased, and in no instance shall the number of housing units be decreased, by more than five percent.~~
- ~~3. There are new deviations to provisions of this Code which were not approved by the Planning Commission as part of the Preliminary PUD Plan.~~

~~F. Substantial modifications to an approved Preliminary or Final PUD shall be reviewed under the same process and approval criteria as would be required for a new Preliminary or Final PUD application, as appropriate. However, the approval criteria shall apply only to those elements of the PUD proposed for revision.~~

~~17.100.130 Limitation on new application~~

~~In the event where an application allowed or provided for by the provisions of this chapter is finally denied after exhaustion of all local appeals, and unless the denial is specifically stated to be without prejudice, it shall not be eligible for re-submission for a period of 12 months from the date of final denial unless, in the opinion of the Planning Director, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.~~

~~17.100.140 — Surety agreement and bond~~

- ~~A. — The developer shall enter into an agreement and provide surety acceptable to the city attorney which assures conformance with the development plan. The city shall have the ability to draw against the surety in an amount necessary to complete the improvements of the infrastructure and other elements of the plan being necessary for protection of the city and general public interest.~~
- ~~B. — The agreement shall be considered a contract between the city and the developer and include at least the following:~~
- ~~1. — Specification of the requirements of what the developer/owner is expected to do.~~
  - ~~2. — The deadline for the performance.~~
  - ~~3. — That the agreement is for the benefit of the local government and not ultimate purchasers of individual lots, units or real estate interest.~~
  - ~~4. — Terms under which the city can determine the developer is in default.~~
  - ~~5. — The right for the city staff to come onto the property and inspect and complete work if necessary.~~
  - ~~6. — Specification adequacy of rights and remedies for enforceability by the city.~~
- ~~C. — Any bond that is used as a part of this surety agreement shall be in the form acceptable to the city attorney and should include the normal commercial elements of an adequate bond and should at a minimum specify an appropriate method of declaration of default, be with a bonding company that is, in the opinion of the city's advisors, a company that has an adequate rating, have sufficient assets, and should be a local Oregon company in the event that the city is required to sue to preserve its right to claim.~~

## Chapter 17.102

### WETLAND PROTECTION STANDARDS

#### Sections:

17.102.010	Purpose
17.102.015	Definitions
17.102.020	Wetland protection
17.102.035	Protection during construction
17.102.040	Plan amendment option

#### 17.102.010 Purpose

This chapter is intended to provide protection for identified significant wetlands within the City of Bandon as designated under Statewide Planning Goal 5. Wetlands have been inventoried within the City of Bandon and the Urban Growth Boundary according to procedures, standards and definitions established under Goal 5 and are identified on the Wetlands map as adopted in the Comprehensive Plan.

This chapter is also intended to 1) ensure reasonable economic use of property while protecting valuable natural resources within the City of Bandon and, 2) establish clear and objective standards to protect these resources.

#### 17.102.015 Definitions

Bioengineering: A method of erosion control and landscape restoration using live plants.

- A. Building Envelope: The land area, outside of all required setbacks, which is available for construction of a primary structure on a particular property.
- B. Delineation: An analysis of a resource by a qualified professional that determines its boundary according to an approved methodology.
- C. Excavation: Removal of organic or inorganic material (e.g. soil, sand, sediment, muck) by human action.
- D. Fill: Deposition of organic or inorganic material (e.g. soil, sand, sediment, muck, debris) by human action.
- E. Impervious Surface: Any material (e.g. rooftops, asphalt, concrete) which substantially reduces or prevents absorption of water into soil.
- F. Lawn: Grass or similar materials usually maintained as a ground cover of less than 6 inches in height. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.
- G. Local Wetlands Inventory (LWI): A report prepared in 2003 by Pacific Habitat Services using the methodology developed by the Oregon Division of State Lands, and adopted as part of the Bandon Comprehensive Plan.
- H. Mitigation: A means of compensating for impacts to a Significant Natural Resource or its buffer including: restoration, creation, or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, removal of nuisance plants, and restoring streamside vegetation where it is disturbed.
- I. Native Vegetation: Plants identified as naturally occurring and historically found within the City of Bandon.
- J. Natural Resource Enhancement: A modification of a natural resource to improve its quality. Non-conforming: A structure or use that does not conform to the standards of

this ordinance but has been in continuous existence from prior to the date of adoption of

this ordinance up to the present. Non-conforming uses are not considered violations and are generally allowed to continue, although expansion, re-construction, or substantial improvements are regulated.

- K. Non-Significant Wetland: A wetland mapped on the City of Bandon Local Wetlands Inventory which does not meet the primary criteria of the Oregon Division of State Lands Administrative Rules, OAR Chapter 141 (July, 1996 or as amended), for Identifying Significant Wetlands. For additional criteria information please refer to Statewide Planning Goal 5 the City of Bandon Local Wetland Inventory.
- L. Oregon Freshwater Wetland Assessment Methodology (OFWAM): A wetland function and quality assessment methodology developed by the Oregon Division of State Lands.
- M. Qualified Professional: An individual who has proven expertise and vocational experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.
- N. Review Authority: The City of Bandon.
- O. Shrubs: Woody vegetation usually greater than 3 feet but less than 20 feet tall, including multi-stemmed, bushy shrubs and small trees and saplings.
- P. Significant Wetland: A wetland mapped on the City of Bandon *Local Wetlands Inventory* which meets the primary criteria of the Oregon Division of State Lands Administrative Rules, OAR Chapter 141 (July 1996 or as amended), for Identifying Significant Wetlands. For additional criteria information refer to Statewide Planning Goal 5 and the City of Bandon Local Wetland Inventory. State and Federal Natural Resource Agency: Oregon Division of State Lands, Oregon Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Department of Agriculture Natural Resources Conservation Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and Department of Environmental Quality.
- Q. Stream: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.
- R. Structure: A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through zoning ordinances.
- S. Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
  - 1. Before the improvement or repair is started, or
  - 2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.The term does not, however, include either:
  - 3. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
  - 4. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- T. Trees: A woody plant 6 inches or greater in diameter at breast height and 20 feet or taller.
- U. Variance: A grant of relief from the requirements of this ordinance, which permits activity

in a manner that would otherwise be prohibited by this ordinance.

- V. Wetland: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Based on the above definition, three major factors characterize a wetland: hydrology, substrate, and biota.
- W. Wetland Boundary: The edges of a wetland as delineated by a qualified professional.

17.102.020 Wetland protection

A. Determination of Local Significance for Wetlands

Prior to alteration or development of any property or parcel containing a wetland area identified in the *Local Wetlands Inventory*, a determination of local significance shall have been made. Locally significant wetlands are determined by OAR 141-86-350, including any optional wetlands adopted by the City Council as locally significant. If an assessment according to the Oregon Freshwater Wetland Assessment Methodology is necessary to determine local significance pursuant to OAR 141-86-350, it shall be the responsibility of the property owner and/or developer, if such an assessment has not been previously performed by the City of Bandon or others, and subject to acceptance and approval of the review authority.

B. Applicability

- 1) The provisions of Section 17.102.020 shall be applied to any property or parcel containing a wetland identified as being locally significant. The provisions shall apply regardless of whether or not a building permit, development permit, or zoning compliance is required, and do not provide any exemption from state or federal regulations. For riparian corridors located adjacent to wetlands, the provisions of Chapter 17.102.030 shall also be applied.
- 2) Applications for plan reviews, development permits, zoning compliance, and plans for proposed public facilities on parcels containing a significant wetland, or a portion thereof, shall contain the following:
  - (a) A jurisdictional delineation of the wetland boundary, approved by the Oregon Division of State Lands.
  - (b) A to-scale drawing that clearly delineates the wetland boundary, existing trees 6" or greater in diameter 4' above the ground, and existing major plant communities and their location.
- 3) When reviewing development permits, zoning compliance, or plan review applications for properties containing a significant wetland, or portion thereof, the approving authority shall consider how well the proposal satisfies the purpose statement in Section 17.102.010, "Purpose", in addition to any other required approval criteria.
- 4) The Planning Commission shall be the approving authority for applications requiring exceptions to the provisions herein pertaining to significant wetlands, pursuant to Section 17.102.020.
- 5) The provisions of this chapter shall not apply to properties or parcels that have received approval for land use permits, plan reviews, building permits or variances prior to the enactment of this Chapter.

- C. Variance. A request to deviate the requirements of this chapter may be submitted for consideration by the Planning Commission. A variance request may be approved as long as equal or better protection of the wetland will be ensured through a plan for restoration, enhancement, or similar means, and if applicable permits from the Oregon Division of State Lands and the U.S. Army Corps of Engineers are obtained. In no case shall activities prohibited in Section 17.102.020(E) occupy more than 25% of the



wetland. Granting of a Variance requires that the property owner submit findings that:

1. the proposed development requires deviation from the wetland standards; and
2. strict adherence to the wetland standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and
3. that the property owner would be precluded a substantial property right enjoyed by the majority of the property owners in the vicinity
4. In all cases, the Planning Commission shall determine whether the proposal is seeking the minimum intrusion into the wetland necessary for the proposal.

D. Delineation of Resource.

1. Preparation/Criteria. An applicant subject to this section shall first delineate the resource. A delineation is a more precise, site specific determination of the location of the resource prepared by a qualified professional. The delineation shall include a map showing the delineated wetland boundary. The applicant shall also submit any approvals obtained by Natural Resource Agencies.
2. Review of Delineation. The Planning Director shall compare the applicant's delineation maps with the 2003 Local Wetlands Inventory, and may inspect staked, delineated resource boundaries. The Planning Director shall approve the delineation if he finds that the delineated boundary accurately reflects the location of the resource. If the Planning Director finds that the evidence is contradictory or does not support the proposed delineation, he shall deny the delineation. In the alternative, the Director may continue the application for additional information if:
  - a. The applicant agrees to conduct a new delineation by a qualified professional at the applicant's expense; and
  - b. The applicant waives the applicable statutory deadline for completing a local decision on the application for the period of time necessary to conduct the new delineation.

Decisions made by the City of Bandon under this chapter do not supercede the authority of state or federal agencies, which may regulate or have an interest in the activity in question. It is the responsibility of the landowner to ensure that any other necessary state or federal permits or clearances are obtained.

3. Adjustment of Wetland Boundaries to Reflect Approved Delineation. An approved delineated boundary shall replace the boundary in the LWI for the purposes of reviewing the development proposal for compliance with this chapter. If and when the proposed development receives final approval, including resolution of any appeals, the wetlands boundary shall be modified to be consistent with the delineated boundary.
4. Re-delineation not Required; Exceptions. An applicant for a development of land that includes a jurisdictional wetland shall not be required to delineate the resource pursuant to this section if the resource has been previously delineated pursuant to an earlier development application, if the delineation has been approved by the Oregon Division of State Lands or the Army Corps of Engineers, and if the delineation is less than 5 years old.
5. Exception: The Planning Director may require a new delineation if:
  - a. The applicant desires to demonstrate that the previously delineated boundary is no longer accurate;
  - b. There is evidence of a substantial change in circumstances on the property that has affected the location of the resource as previously delineated; or

- c. The City Council has adopted new delineation standards or requirements

since the previous delineation.

E. Prohibited Activities Within Significant Wetlands

The following activities are prohibited within significant wetlands except as may be permitted in Section 17.102.020(F)(2).

1. Placement of structures or impervious surfaces, including septic drainfields, fences, decks, etc.
2. Excavation, grading, fill, or removal of vegetation, except for perimeter mowing for fire protection purposes. Non-native vegetation may be replaced with native plants.
3. Expansion of existing non-native landscaping, such as lawn, in existence prior to the adoption of this chapter.
4. Dumping, piling, or disposal of refuse, yard debris, or other material.
5. Application of chemicals such as herbicides, pesticides, and fertilizers unless applied in accordance with state and/or federal regulations.

F. Permitted Activities Within Significant Wetlands

1. The following activities, and maintenance thereof, are permitted within a significant wetland if applicable permits from the Oregon Division of State Lands and the U.S. Army Corps of Engineers are obtained.
  - a. Wetland restoration and rehabilitation activities.
  - b. Restoration and enhancement of native vegetation, including the addition of canopy trees; cutting of trees which pose a hazard due to a threat of falling; or removal of non-native vegetation if replaced with native plant species at the same amount of coverage or density.
  - c. Normal farm practices, other than structures, in existence prior to the date of adoption of the provisions herein.
2. The following activities, and maintenance thereof, are permitted within a significant wetland if the activity meets the requirements of 17.102.020(J) "Mitigation Requirements", if no other options or locations are feasible, if designed to minimize intrusion into the wetland, and if applicable permits from the Oregon Division of State Lands and the U.S. Army Corps of Engineers are obtained.
  - a. Utilities or other public improvements.
  - b. Streets, roads, or bridges where necessary for access or crossings.
  - c. Multi-use paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture.
  - d. Replacement of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein with a structure in the same location, if it does not disturb additional wetland area.
  - e. Expansion of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein, if the expansion area is not within the significant wetland.

G. Conservation and Maintenance of Significant Wetlands

When approving applications for plan reviews, development permits, or zoning compliance for properties containing a wetland protection area, or portion thereof, the approving authority shall assure long term conservation and maintenance of the wetland through one of the following methods:

1. The area shall be protected in perpetuity by a conservation easement recorded

on deeds and plats prescribing the conditions and restrictions set forth and any

- imposed by state or federal permits; or,
- 2. The area shall be protected in perpetuity through ownership and maintenance by a private non-profit association by conditions, covenants, and restrictions (CC&R's) prescribing the conditions and restrictions and any imposed by state or federal permits; or,
- 3. The area shall be transferred by deed to a willing public agency or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth and any imposed by state or federal permits; or,
- 4. The area shall be protected through other appropriate mechanisms acceptable to the City of Bandon, which ensure long-term protection and maintenance.

H. Mitigation

Mitigation is a way of repairing or compensating for adverse impacts to the functions and values of a natural resource caused by development. Mitigation may consist of resource area creation, restoration, or enhancement. Some examples of mitigation actions are enhancement of existing wetlands, replanting trees, and restoring streamside and/or wetland vegetation where it is disturbed. Recognizing that true replacement of functioning or complex natural resource system is difficult and can take many years, mitigation is discouraged by first requiring that avoidance of development siting within the resource be explored. Then, if that is not possible, actions should be taken to minimize the damage to the resource.

I. Progressive Mitigation Steps Required

The approving authority shall permit development only if it finds that the following progressive steps have been met:

- 1. Step #1 - Avoidance: The applicant shall endeavor to avoid detrimental impacts to the wetland altogether by providing alternative site plans along with the development proposal demonstrating that alternative designs have been explored. If disturbance of a wetland is proposed, the applicant shall first demonstrate that intrusion into the wetland area cannot be avoided by a reduction in the size or configuration of the proposed development or by changes in the design that would avoid adverse effects on the resource while still allowing development of the property.
- 2. Step #2 - Minimization: If the applicant has endeavored to avoid detrimental impacts to the wetland, and the review authority finds that detrimental impacts cannot be avoided, then the applicant shall minimize impacts by demonstrating that:
  - a. Alternative and significantly different site plans and development locations on the subject site have been considered, and that the alternative chosen is the least environmentally damaging; and
  - b. When mitigation is proposed, there will be no net loss of wetland area, function, or values as a result of development actions.

J. Mitigation Requirements

- 1. Mitigation Plan. When mitigation is proposed or required as part of a development application, the applicant shall provide a mitigation plan prepared by a qualified professional that:
  - a. Demonstrates compliance with OAR 141-85-005 through 090 and this section.
  - b. Includes a maintenance and monitoring plan to ensure the viability of the mitigation over time. As part of the monitoring plan, the applicant or other legally responsible agent shall provide an annual report to the Planning

Director on October 31st of each year for a 5-year period. The report

- shall be prepared by a qualified professional and shall document site conditions with narrative and pictures.
- c. Provisions for regular maintenance and periodic monitoring of the mitigation site at the applicant's expense. Failure to comply with an approved mitigation plan shall be deemed a violation of this chapter and a public nuisance and may be enforced pursuant to Chapter 8.12.
  2. If a Division of State Lands (DSL) wetland permit, Army Corp. of Engineers, or other State or Federal permit is also required, the City shall not issue a permit until all applicable State and Federal wetland permit approvals have been obtained.
  3. Mitigation shall be completed prior to a final inspection, issuance of final occupancy permit, or acceptance of a public improvement, or to a point stipulated by the review authority.
  4. On-site mitigation is required where possible, taking into consideration the existing natural and human-made features of a site. If the review authority finds that on-site mitigation is not possible, then off-site mitigation shall be permitted according to the following priorities:
    - a. Within the same drainage system and within the City limits; or
    - b. Outside of the drainage system, but inside the City limits; or
    - c. Outside the drainage system and City limits, but within the Bandon Urban Growth Boundary.
  5. When wetland mitigation is proposed the review authority shall require minimum mitigation ratios (area of wetland created or enhanced to area of wetland lost) as follows:
    - a. Wetlands Restoration - 1:1 ratio
    - b. Wetlands Creation - 1.5:1 ration
    - c. Wetlands Enhancement - 3:1 ratio
  6. Vegetation restoration shall be required to mitigate the loss of plant communities disturbed by development activities. Restoration vegetation shall be required for all mitigation projects, including trees, shrubs, and ground cover plants as identified on the Restoration Plants List (on file in the Planning Department). The restoration plant community chosen shall recreate a diverse and healthy environment compatible with the resource.
  7. Initial 5-Year Bonding Period.
    - a. The applicant or property owner of a development subject to an approved mitigation plan shall post a performance bond or a letter of credit to the City that is equal to 120% of the value of the improvements installed pursuant to the plan for a 5 year period. The bond shall be posted prior the issuance of development permits to ensure the success of mitigation improvements and the survival of plant materials.
    - b. The performance bond or the letter of credit will be released by the City after 5 years upon receiving proof that the mitigation measures have been successfully implemented according to approved plans from DSL or the Corps of Engineers. Following release of the financial guarantee, the appropriate party will be responsible for maintenance of the resource.
    - c. If mitigation improvements fail during the bonding period and responsible party does not replace said improvements after notification by the City, the bond shall be forfeited and shall be used by the City to correct the problem pursuant to the approved mitigation plan and the conditions of



approval.

- d. Property owners of individual tax lots that are lots of record, which are zoned for single family residential use, are not large enough to be further divided, and were in existence prior to the date this section becomes effective shall be exempt from these bonding requirements.

K. Wetlands Notification to Oregon Division of State Lands

The Oregon Division of State Lands shall be notified of all applications to the City of Bandon for development activities, including applications for plan authorizations, development permits, or building permits, and of development proposals by the City of Bandon, that may affect any wetlands, creeks, or waterways identified on the *Local Wetlands Inventory*.

17.102.035 Protection during construction

The applicant shall be required to submit a resource protection plan prior to commencement of ground-disturbing activities that may affect wetlands or riparian corridors. The plan shall be submitted and approved by the Planning Director and must contain methods ensuring that the resource is not disturbed during construction, which includes both physical barriers such as fencing and methods to ensure that no runoff or other surface impacts affect the resource. The approved plan shall be implemented and maintained until such time as the Planning Director deems it is no longer necessary. Failure to implement and/or maintain the approved plan will result in an immediate stop work order and possible abatement in accordance with Chapter 17.120.210.

17.102.40 Plan amendment option

Any owner of property affected by this chapter, as designated in the comprehensive plan, may apply for a quasi-judicial comprehensive plan amendment. This amendment must be based on a specific development proposal. The effect of the amendment would be to remove the significant wetland or riparian corridor designation from all or a portion of the property. The applicant shall demonstrate that such an amendment is justified by completing an Economic, Social, Environmental, and Energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040. If the application is approved, then the ESEE analysis shall be incorporated by reference into the Bandon Comprehensive Plan, and the Bandon Wetland and Riparian Corridor Map shall be amended accordingly. The ESEE analysis shall adhere to the following requirements and shall be submitted in accordance with Chapter 14 of the Bandon Comprehensive Plan:

The ESEE analysis must demonstrate to the ultimate satisfaction of the Bandon City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource. The City should confer with the Department of Land Conservation and Development prior to making their ultimate decision.

1. The ESEE analysis must demonstrate why the use cannot be located on buildable land outside of the resource and that no other sites within the City of Bandon can meet the specific needs of the proposed use.
2. The ESEE analysis shall be prepared by a qualified professional experienced in the preparation of Goal 5 ESEE analyses, with review and approval by the City and DLCDD.

## Chapter 17.103

### RIPARIAN CORRIDOR PROTECTION

#### Sections

- 17.103.010 Applicability
- 17.103.020 Exemptions
- 17.103.030 Permitted Activities within Riparian Corridors
- 17.103.040 Permitted Activities within Riparian Corridors
- 17.103.050 Exceptions (Setback Adjustments and Variances)
- 17.103.060 Protection During Construction

#### 17.103.010 Applicability

- A. Riparian protection shall be applied to the riparian corridors as identified in the Riparian Inventory of the Comprehensive Plan, maintained in the City of Bandon Planning Department, which is incorporated herein by reference, and includes the following:
1. A corridor one hundred (100) feet wide, centered on the following segments of the following creeks:
    - a. **Johnson Creek** - from the City limits west of Highway 101 to the Statutory Vegetation Line.
    - b. **Gross Creek - Main Stem** - from 13<sup>th</sup> Street SW to Edison Avenue.
    - c. **Gross Creek - West Branch** - from 4<sup>th</sup> Street SW to Jetty Road.
    - d. **Tupper Creek** - from Queen Anne Court to the Statutory Vegetation Line.
  2. A corridor fifty (50) feet wide, centered on the following segment of the following creeks:
    - a. **Spring Creek** - from Ohio Avenue NE to the Bandon Marsh National Wildlife Refuge on the Coquille River.
    - b. **Gross Creek - West Fork** - from 13<sup>th</sup> Street SW to intersection with Gross Creek Main Stem south of 11<sup>th</sup> Street.
  3. **Ferry Creek**  
The significant riparian corridor along the portion of Ferry Creek that runs through the Locally Significant Wetland of Ferry Creek will extend to the edge of the wetland. The Riparian corridor along portions of Ferry Creek that are not Locally Significant Wetland, shall be protected as follows:
    - a. **Ferry Creek - Main Stem** - from Highway 101 (2<sup>nd</sup> Street SE) to the south side of 3<sup>rd</sup> Street SE a corridor of (50) feet wide, centered on the creek.
    - b. **Ferry Creek - Main Stem** - from the south side of 3<sup>rd</sup> Street SE at Grand Avenue southwesterly approximately 300 feet to the point in the alley between 4<sup>th</sup> and 5<sup>th</sup> Streets, mid-block between Grand and Harlem Avenues a corridor one hundred (100) feet wide, centered on the creek.
    - c. ***Ferry Creek-Tributary - from the Ferry Creek - Main Stem in the vicinity of 5<sup>th</sup> Street between North Avenue and Michigan Avenue, south to the City limits, a corridor one hundred (100) feet wide, centered on the creek.***
- B. The provisions of this Chapter shall apply whether or not a plan review, zoning compliance, or land development permit is required, and do not provide any exemption

from any state or federal regulations. For locally significant wetland located within

riparian corridors, the provisions of Chapter 17.102 shall also apply.

- C. Applications for plan reviews, land development permits, and zoning compliance, and plans for public facilities proposed to be located on parcels containing a riparian corridor, or portion thereof, shall contain a to-scale drawing that clearly delineates the riparian corridor on the entire parcel or parcels, if the City Manager or Community Development Director determines that the riparian corridor could be affected by the proposal.
- D. Any use or structure lawfully existing on the date of adoption of this Chapter is permitted within the riparian corridor and may continue at a similar level and manner as existed on the date of adoption, subject to the provisions of 17.103.020.
- E. The Planning Commission shall be the approving authority for applications for exceptions, setback adjustments, and variances to the provisions herein pertaining to Riparian Corridors.
- F. In making any determination or decision under this Chapter, the approving authority may consult with, or seek recommendations from, any other local, state, or federal agency or authority.

#### 17.103.020 Exemptions

The restrictions imposed by this Chapter do not apply to the maintenance, repair, or reconstruction of any structure, building, or use, or portion thereof, which is located within a riparian setback area either on the effective date of this Chapter or subsequently allowed pursuant to the provisions of this Chapter, and which is damaged, destroyed, or removed by any means whatsoever, provided such maintenance, repair, or reconstruction shall not result in a greater intrusion into the riparian setback area than existed at the time of such damage, destruction, or removal.

#### 17.103.030 Prohibited Activities within Riparian Corridors

The following activities are prohibited within a riparian corridor, except as may be allowed pursuant to 17.103.050:

- A. Placement of structures or impervious surfaces, including fences, decks, etc.
- B. Excavation, grading, fill, stream alteration or diversion, or removal of native vegetation, except for perimeter mowing for fire protection purposes.
- C. Expansion of pre-existing non-native ornamental vegetation such as lawn.
- D. The utilization of herbicides or pesticides, except as specifically approved by the City on an individual case-by-case basis. Approval for the use of herbicides or pesticides shall require that they be applied in full compliance with manufacturer's instructions and all applicable Federal, State, and local regulations.

#### 17.103.040 Permitted Activities within Riparian Corridors

The following activities, and maintenance thereof, shall be permitted within a riparian corridor, provided they are designed to minimize impact on, and intrusion into, the riparian corridor, and provided all applicable City, State, and Federal permits have been obtained:

- A. Waterway restoration and rehabilitation activities such as channel widening, realignment to add meander, bank grading, terracing, reconstruction of road crossings, or water flow improvements.
- B. Restoration and enhancement of native vegetation, including the addition of canopy trees, cutting of trees which pose a hazard, and removal of non-native vegetation.

Removal of trees and native vegetation shall be avoided during construction except as

determined by the plan review approving authority to be absolutely necessary to accommodate the construction. The existing grade of the land shall be restored after construction.

- C. Streets, roads, driveways, and paths; provided that bridges, arched culverts, or box culverts with a natural bottom shall be used at the stream crossing. The lower lip of any culvert must meet the channel bed at or below grade. The number of channel crossings shall be minimized through use of shared access for abutting lots wherever possible.
- D. Drainage facilities, utilities, and irrigation pumps, as approved by the City.

#### 17.103.050 Exceptions (Setback Adjustments and Variances)

A request for an exception, which shall be either a "setback adjustment" or "variance" as provided herein, to reduce or deviate from the riparian corridor boundary provisions of this Chapter may be submitted to the Planning Commission.

- A. In all cases, the applicant shall supply sufficient information regarding the proposed development to allow the Commission to make a determination regarding the impact on riparian resources. This information shall include, but is not limited to: a plot plan showing the center of the creek and the top of bank, the riparian corridor boundary, the extent to which the proposed development will extend into the riparian corridor, uses that will occur within the corridor, the existing vegetation and the extent of vegetation removal, characteristics (type, size, and density) of existing and proposed vegetation, any proposed alterations to topography or drainage patterns, and existing uses or structures on the property and any potential impacts they could have on the riparian resource.
- B. The removal of native vegetation shall be limited to the amount necessary to accommodate the proposed use. Any vegetation removed in excess of this standard shall be replaced with native species.
- C. In all cases, the Planning Commission shall determine whether the applicant has demonstrated that the proposal is seeking the minimum intrusion into the riparian corridor is unnecessary, the proposal may be modified or denied.
- D. Setback Adjustment
  - 1. Qualifying Lots: Lots on which the riparian setback required by this Chapter exceeds any other setbacks in a particular yard, and which, when combined with other yard setbacks, results in a building depth area of 20 feet or less or a building envelope of 1600 square feet or less.
  - 2. Setback Reduction Limitations: Reductions to the riparian setback shall be the minimum necessary to create a building depth of 50 feet or a building envelope of 1600 square feet, whichever requires a lesser reduction of the setback, provided the reduction shall not result in a structure being located closer than 25 feet from the center of the creek in a 100 ft. wide riparian corridor, or 12.5 feet from the center of the creek in a 50 ft. wide riparian corridor. Additional reductions of setbacks shall require a variance.

#### E. Variance

In cases where the provision for a setback adjustment is not sufficient to provide the necessary building area contained in 17.102.050.D, a property owner may request a variance to the riparian setback, which shall be filed and processed in accordance with the provisions of Chapter 17.112 of the Bandon Municipal Code. In addition to meeting those requirements, granting of a variance to the riparian setback requires that the property owner submit findings that:

- 1. the proposed development requires deviation from the riparian standards; and

2. strict adherence to the riparian setback and other applicable standards would



effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of property owners in the vicinity; and

3. The provisions of 17.102.050.D are sufficient to remedy the hardship.

#### 17.103.060 Protection During Construction

When determined by the City Manager or Community Development Director that any proposed activity could impact a riparian corridor, the applicant for approval shall be required to submit a resource protection plan prior to commencement of ground-disturbing activities. The plan shall be submitted and approved by the City, and must contain methods ensuring that the riparian resources are not disturbed during construction. These methods could include, but are not necessarily limited to physical barriers such as fencing, and methods to ensure that no runoff, erosion, or other construction activities impact the resource. The approved plan shall be implemented and maintained until such time as the City deems it is no longer necessary.

## Chapter 17.104

### SUPPLEMENTARY PROVISIONS

#### Sections:

- 17.104.010 Zone boundaries.
- 17.104.020 General provisions regarding accessory uses.
- 17.104.030 Projections from buildings.
- 17.104.040 Maintenance of minimum requirements.
- 17.104.050 General exception to lot size requirements.
- 17.104.060 General exception to yard requirements.
- 17.104.080 Access.
- 17.104.090 Vision clearance area.
- 17.104.100 Protection of riparian areas.

#### 17.104.010 Zone boundaries.

Unless otherwise specified, zone boundaries are section or subdivision lines, lot lines, the ordinary high water line or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, the entire parcel shall be placed in the zone that accounts for the greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedure for a zone change shall be followed.

#### 17.104.020 General provisions regarding accessory uses.

A. Accessory Uses: accessory uses shall comply with all requirements for the primary use except where specifically modified by this title and shall comply with the following limitations:

1. No sales shall be made from a greenhouse or hothouse maintained as accessory to a dwelling.
2. A home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:
  - a. No exterior display shall be permitted.
  - b. Exterior signs shall be restricted to those generally permitted in the zoning district in which the home occupation is located.
  - c. No exterior storage of materials shall be permitted.
  - d. There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.

B. Accessory Dwellings: Accessory Dwellings are allowed as permitted uses in the following zones: R-1, R-2, CD-1, CD-3, CD-R1, CD-R2, or anywhere a single-family dwellings are outright permitted. Accessory dwellings shall comply with all requirements of the primary use except where specifically modified by the title and shall comply with the following limitations:

1. Accessory Dwelling Units are prohibited from use as a Vacation Rental Dwelling in all zones. Accessory Dwelling Units are also prohibited on properties designated as Vacation Rental Dwellings.
2. A detached Accessory Dwelling shall not exceed 650 square feet of floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller.
3. An attached or interior Accessory Dwelling shall not exceed 650 square feet of

floor area, or 40 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 650 square feet.

4. One additional off-street parking space, beyond the two required for a single-family dwelling, is required for an accessory dwelling.
5. Development of an Accessory Dwelling Unit (DU) shall require the payment of a systems development charge in rough proportionality to the amount charged for a single-family dwelling based on size. As the floor area of an ADU is limited to 40% of the floor area of the primary residence, the SDC for an ADU will be \$5,500, which is 40% of the \$13,750 charged for a single-family dwelling.
6. Detached Accessory Dwelling Units shall have electric and water meters separate from the primary residence. For attached Accessory Dwelling Units, separate metering is optional.

17.104.025 Fence and wall standards (new)

- A. Front yard. A fence or wall located in a required front yard shall not be more than four (4) feet tall measured from curb elevation. When no curb elevation has been established, the height shall be measured from the established center line grade of the street abutting the yard concerned.
- B. Rear yard. A rear yard fence or wall shall not be more than eight (8) feet tall.
- C. Side yard. A side yard or wall shall not be more than six (6) feet.
- D. Height measurement. Fence or wall height is measured from the ground to the top of the highest part of the fence or wall, including posts, caps or other projections, but not including gates or arbors.

- E. Retaining wall. These standards do not apply to a device used to buttress earth, such as a retaining wall or riprap.
- F. Fences and walls are deemed accessory uses which serve the purpose of enclosing unroofed areas outside buildings. Any fence, wall or hedge must comply with vision clearance requirements. In a commercial or industrial district, notwithstanding the yard requirements, a fence, wall, hedge or other like screening device may be required by the City as a condition of the approval of a proposed improvement on a lot abutting, or across the street or alley from, an adjacent property in a residential district if the City finds that such screening is necessary to prevent an unreasonable interference with the use and enjoyment of the residential lot.
- G. Gates are prohibited on public or private streets, which serve more than two lots, parcels, or dwellings.

17.104.030 Projections from buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features shall not project more than eighteen (18) inches into a required yard.

17.104.040 Maintenance of minimum requirements.

No lot area, yard or other open space, or required off-street parking or loading area, existing on or after the effective date of the ordinance codified in this title, shall be reduced below the minimums required by this title; nor shall any lot area, yard or other open space or off-street parking or loading area which is required by this title for one use be used as the lot area, yard or other open space or off-street parking or loading area required for any other use, except as provided in Section 17.96.040(D).

17.104.050 General exception to lot size requirements.

- A. A parcel or lot which does not meet the current lot size requirements of the zone in which the property is located may be developed, provided that all other requirements of the zone are met.
- B. If a property owner desires to proceed with constructing an improvement on all or part of a parcel or contiguous subdivision lots, no portion of the property amounting to less than the whole property, shall be sold, divided or separated without the written permission of the City. This requirement shall be set forth in a Real Property Covenant and Restriction document which shall be filed at the County as a deed restriction.

17.104.060 General exception to yard requirements.

- A. Subject to the requirements of subsection B of this section, the following exceptions to the front yard requirement for a dwelling are authorized for a lot in any zone:
  - 1. If there are dwellings on both abutting lots with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
  - 2. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth of one-half way between the front yard depth of the abutting lot and the required front yard depth.
- B. No yard abutting Beach Loop shall be less than fifteen (15) feet.

17.104.080 Access.

A. All lots shall abut a street other than an alley for a width of at least forty (40) feet.

- B. The number of access locations onto highways and arterial streets from any development shall be minimized whenever possible through the use of common driveways or side streets common to more than one development and interior vehicle circulation design.
- C. Highway access shall be coordinated with the Oregon Department of Transportation.

17.104.090 Vision clearance area.

No vision clearance area shall contain planting, walls, structures or temporary or permanent obstructions exceeding two and one-half feet in height measured from the top of the curb or, where no curb exists, grade at the property line.

- A. Residential driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points twenty (20) feet from their intersection. This measurement will form a triangle which will be used to calculate the vision clearance area.
- B. Commercial driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points thirty (30) feet from their intersection. This measurement will form a triangle which will be used to calculate the vision clearance area.
- C. Street intersections shall have a minimum vision clearance area formed by the intersecting streets measuring a line along each pavement edge and a straight line joining said lines through points thirty (30) feet from their intersection. This measurement will form a triangle which will be used to calculate the vision clearance area.
- D. Trees shall be allowed within the vision clearance area, provided no portion of a tree except the main trunk shall be located between a height of two and one-half and a height of eight feet.

## Chapter 17.108

### NONCONFORMING USES AND STRUCTURES

#### Sections:

- 17.108.010 Purpose
- 17.108.020 Non-conforming structure.
- 17.108.030 Non-conforming Fence
- 17.108.040 Non-conforming Lot
- 17.108.050 Non-conforming use.
- 17.108.060 Change of a non-conforming use.

#### 17.108.010 Purpose

The purpose of this chapter is to establish the legal status of nonconforming uses, structures, fences, lots, and other site improvements by creating provisions to allow such structures, uses, fences, or lots to be maintained, altered, reconstructed, expanded or abated.

#### 17.108.020 Nonconforming Structure.

- A. A non-conforming structure may be altered or extended if the alteration or extension conforms to the standard of this Title.
- B. A non-conforming structure may be rebuilt provided that the new structure does not deviate further from the requirements of this Title than the original structure and the new structure is constructed inside the property lines..
- C. If a non-conforming structure is removed, a property owner has two (2) years to receive a certificate of occupancy on the replacement of a non-conforming structure.
- D. A property owner shall be required to remove a non-conforming structure if the value of the structure is minimal (Under \$ 200.00)
- E. Nothing contained in this title shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of the ordinance codified in this title; except that if the building is nonconforming, or is intended for a nonconforming use, it shall be completed and in use within two years from the time the permit is issued.

#### 17.108.030 Non-conforming Fence

A non-conforming fence may be replaced as originally built, provided that the fence is constructed inside the property lines of the lot and conforms to the vision clearance and utility requirements and construction is completed within one year.

#### 17.108.040 Non-conforming Lot.

A. A legally created parcel or lot which does not meet the current lot size requirements of



the zone in which the property is located may be developed, provided that all other requirements of the zone are met.

- B. If a property owner desires to proceed with constructing an improvement on all or part of a parcel or contiguous subdivision lots, no portion of the property amounting to less than the whole property, shall be sold, divided or separated without the written permission of the City. This requirement shall be set forth in a Real Property Covenant and Restriction document which shall be filed at the County as a deed restriction. [Moved from 17.104.050 General exception to lot size requirements.]

17.108.050 Non-conforming Use.

- A. If a Non-conforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.
- B. If a Non-conforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.
- C. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time the ordinance codified in this title was adopted shall not be considered an extension of a nonconforming use.
- D. The change of ownership, tenancy, or management of a non-conforming use shall not affect its non-conforming status, provided that the use, extent, and intensity of use does not change.
- E. If a Non-conforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a Non-conforming use.
- F. If a Non-conforming use is discontinued for a period of one year, further use of the property shall be for a conforming use.
- G. A Non-conforming use not involving a structure, or one involving a structure having an assessed value of less than two hundred dollars (\$200.00), shall be discontinued within two years from the date the ordinance codified in this title was adopted.

17.108.060 Change of a non-conforming use.

If a Non-conforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a Non-conforming use.

## Chapter 17.112 VARIANCES

### Sections:

17.112.010 Authorization to grant or deny variances.

17.112.020 Conditions for granting a variance.

17.112.030 Variance procedure.

#### 17.112.010 Authorization to grant or deny variances.

The planning commission may authorize variances from the requirements of this title where it is shown that, owing to special and unusual circumstances related to specific piece of property, the literal interpretation of this title would cause an undue or unnecessary hardship; except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the planning commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this title.

#### 17.112.020 Conditions for granting a variance.

No variance shall be granted unless it can be shown that all the following conditions can be met:

- A. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control;
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity;
- C. The authorization of the variance will not be materially detrimental to the purposes of this title, be injurious to property in the zone or vicinity in which the property is located or otherwise conflict with the objectives of any city development plans or policies;
- D. The variance requested is the minimum variance which will alleviate the hardship.

#### 17.112.030 Variance procedure.

The procedures for a variance application shall be the same as for a conditional use permit application.

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## Chapter 17.116

### ZONE CHANGES AND AMENDMENTS

#### Sections:

~~17.116.010 — Authorization to initiate amendments.~~

~~17.116.020 — Application and fee.~~

~~17.116.030 — Conditional zone amendment.~~

~~17.116.040 — Records of amendments.~~

~~17.116.010 — Authorization to initiate amendments.~~

~~An amendment to the text or the zoning map of this title or the comprehensive plan may be initiated by the city council, by the planning commission, or by a property owner or his or her authorized agent. The planning commission shall hold a hearing and recommend to the city council to approve, approve with conditions, or deny the proposed amendment. The city council may hold a public hearing (public hearings shall occur in accordance with Section 17.120.080). Amendments shall be adopted by ordinance.~~

~~17.116.020 — Application and fee.~~

~~An application for zoning ordinance or comprehensive plan amendment by a property owner or their authorized agent shall be filed with the city. A fee shall accompany the application. If a form is not provided, such as in the case of a plan amendment, the application shall be reviewed by the planning director, who shall respond in writing within ten (10) days on whether the application is complete or, if it is not, what additional information will be necessary to be supplied by the applicant to render the application complete. The planning director shall review proposed zone changes or amendments to the text of the zoning ordinance to determine consistency with the comprehensive plan and that the amendment will not adversely affect the city's or the developer's ability to satisfy land use, transportation and utility, service needs or capacities. The proposed amendment shall also be reviewed to determine the suitability of the uses proposed in terms of slope, geologic stability, flood hazard, wetlands and other relevant hazard or resource considerations.~~

~~17.116.030 — Conditional zone amendment.~~

~~The purpose of the conditional zone amendment provision is to enable the city council to attach specific conditions to a request for a zone boundary change where it finds that such conditions are necessary to achieve a stated public purpose.~~

~~A. — The city council shall have the authority to attach conditions to the granting of amendments to a zone boundary. These conditions may relate to any of the following matters:~~

- ~~1. — The uses permitted;~~
- ~~2. — Public facility improvements such as street improvements, dedication of street right of way, sewer, storm drainage, and water;~~
- ~~3. — That all or part of the development or use be deferred until certain events, such as the provision of certain public facilities to the property, occur;~~
- ~~4. — The time frame in which the proposed use associated with the zone boundary change is to be initiated.~~

~~B. — Conditions attached to a zone boundary change shall be completed within the time limitations set forth. If no time limitations are set forth, the conditions shall be completed~~

~~within two years from the effective date of the ordinance enacting the one boundary~~

change.

- ~~C. The city council may require a bond from the property owner or contract purchasers in a form acceptable to the city in such amount as to assure compliance with the conditions imposed on the zone boundary change. Such a bond shall be posted prior to the issuance of the appropriate development permit.~~
- ~~D. Conditions shall not be imposed which would have the effect of limiting use of the property to one particular owner, tenant or business. Conditions may limit the subject property as to use, but shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.~~
- ~~E. Conditions that are imposed under the provisions of this section shall be construed and enforced as provisions of this zoning code relating to the use and development of the subject property. The conditions shall be enforceable against the applicant as well as their successors and assigns.~~
- ~~F. Requests for modification of conditions shall be considered by the zone amendment application and review procedure of this chapter.~~
- ~~G. Failure to fulfill any condition attached to a zone boundary change within the specified time limitations shall constitute a violation of this section and may be grounds for the city to initiate a change in the zone boundary pursuant to the procedures of this chapter.~~

~~17.116.040 Records of amendments.~~

~~The city recorder shall maintain records of amendments to the text and map of the plan and this title in a form convenient for use of the public.~~

## Chapter 17.118

### ANNEXATION

#### Sections:

17.118.010	Purpose
17.118.015	Procedure
17.118.020	Application
17.118.025	Initiation by Council
17.118.030	Approval Standards
17.118.040	Boundaries
17.118.050	Statutory Procedure
17.118.060	Mapping

Ordinance History: No. 1543

#### 17.118.010 Purpose.

The purpose of this chapter is to provide for the orderly transition and rezoning of land from Bandon's Urban Growth Boundary into the City Limits and to ensure the requirements of boundary changes, the provision of public facilities, and land use compatibility have been adequately addressed.

#### 17.118.015 Procedure.

All annexations shall be processed in the same manner as a Comprehensive Plan Amendment, with the exception that the requirements of state law regarding annexations shall be met.

#### 17.118.020 Application.

Except for annexations initiated by the council pursuant to section 17.118.025, application for annexation shall include the following information:

- A. Consent to annexation which is non-revokable for a period of one year from its date.
- B. Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.
- C. Boundary description and map prepared in accordance with ORS 308.225. Such description and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed and monumented as required by statute subsequent to Council approval of the proposed annexation.
- D. Written findings addressing the criteria in 17.118.030.
- E. Application by the property owner for a zone change and Comprehensive Plan amendment.
- F. A fiscal impact analysis that clearly illustrates the fiscal impact that annexing the area will have on the finances of the City.
- G. The required fee set by resolution of the City Council.

#### 17.118.025 Initiation by Council.

A proposal for annexation may be initiated by the Council on its own motion. The approval standards in section 17.118.030 shall apply. Provided, however, that in the case of annexation where current or probable public health hazard due to lack of full City sanitary sewer or water services or the lot or lots proposed for annexation are an "island" completely surrounded by

Bandon Municipal Code, Title 17, ~~Codified 02-03-2020~~ Proposed Changes

lands within the city limits, the only standards that apply shall be 17.118.030(A)

17.118.030 Approval standards.

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A. The land is within the City's Urban Growth Boundary.
- B. The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C. The land is currently contiguous with the present City Limits.
- D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage. Unless the City has declared a moratorium based upon a shortage of water or sewer, it is recognized that adequate capacity exists system-wide for these facilities.
- E. The annexation is consistent with the annexation policies contained in the Comprehensive Plan.

17.118.040 Boundaries.

When an annexation is initiated by a private individual, the City Manager may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City of Bandon. The City Manager, in a report to the Planning Commission and Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Planning Commission and Council to make annexations extending the City's boundaries more logical and orderly.

17.118.050 Statutory procedure.

The applicant for the annexation shall also declare which procedure, under ORS Chapter 222, the applicant proposes that the City Council use, and supply evidence that the approval through this procedure is likely.

17.118.060 Mapping.

Within 2 months of adoption of the ordinance approving an annexation, the City shall cause the annexation to be included on the official zoning map of the City, and shall provide to Coos County and the State of Oregon copies of the official map and ordinance approved by the City.

## Chapter 17.120

### ADMINISTRATION AND ENFORCEMENT

#### Sections:

- ~~17.120.010 Purpose.~~
- ~~17.120.020 Types of procedures and actions.~~
- ~~17.120.030 Applications.~~
- ~~17.120.040 Time limit on action on applications.~~
- ~~17.120.050 Administrative review and approval process.~~
- ~~17.120.060 Limited land use decisions, permits or actions.~~
- ~~17.120.070 Notice requirements for public land use reviews or limited land use decisions.~~
- ~~17.120.080 Permits or land use approvals which require a public hearing.~~
- ~~17.120.090 Notice of public hearing.~~
- ~~17.120.100 Availability of hearings information.~~
- ~~17.120.110 Hearings procedure.~~
- ~~17.120.120 Conflicts of interest and ex parte contacts.~~
- ~~17.120.130 Order of hearing procedures.~~
- ~~17.120.140 Official notice.~~
- ~~17.120.150 Challenge for bias or conflicts.~~
- ~~17.120.160 Authority of hearings officer.~~
- ~~17.120.170 Quorum.~~
- ~~17.120.180 Fees.~~
- ~~17.120.190 Interpretation.~~
- ~~17.120.200 Enforcement.~~
- ~~17.120.210 Violations.~~
- ~~17.120.220 Penalty.~~

#### ~~17.120.010 Purpose.~~

~~The provisions of this chapter provide standard procedures for the activation and decision-making process for planning and land use actions.~~

#### ~~A. 17.120.020 Types of procedures and actions. Types of procedures and actions include:~~

- ~~A. Permits or actions that may occur or be approved administratively;~~
- ~~B. Permits or actions that require plan review, site review, design review or other review at regularly scheduled public meetings;~~
- ~~C. Permits or actions which may occur only after approval resulting from a public hearing.~~

#### ~~17.120.030 Applications.~~

~~An application for a permit shall occur as a written application on a form provided by the city. Applications may be filed by the city, the owner of the property, or the contract purchaser with written approval from the owner. There shall be paid to the city at the time of filing an application.~~

Bandon Municipal Code, Title 17, Codified 02-03-2020 Proposed Changes

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~~fee. This fee is set separately from this title.~~

**17.120.040 Time limit on action on applications.**

- A. Except as provided in subsections D and E of this section, the city shall take final action on an application for a permit or zone change, including resolution of all appeals under ORS 227.180, within one hundred twenty (120) days after the application is deemed complete.
- B. If an application for a permit or zone change is incomplete, the city or its designate shall notify the applicant of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed incomplete and void for the purposes of subsection A of this section on the 31st day after the city mailed or delivered notification to the applicant of the required additional information.
- C. If the application was complete when first submitted or the applicant submits the requested additional information within one hundred eighty (180) days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- D. The one hundred twenty (120) day period set in subsection A of this section may be extended for a reasonable time at the written request of the applicant.
- E. The one hundred twenty (120) day period set in subsection A of this section applies only to decisions wholly within the authority and control of the governing body of the city. This does not apply to an amendment to the city's acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the director of DLCD under ORS 197.610(1).
- F. Local government has one hundred twenty (120) days to take final action on an application for a permit or zone change unless the parties have agreed to mediation as described in ORS 197.318(2)(b).
- G. If the governing body of the city or its designate does not take final action on an application for a permit or zone change within one hundred twenty (120) days after the application is deemed complete, the applicant may apply in the circuit court of the county where the application was filed for a writ of mandamus to compel the governing body or its designate to issue the approval. The writ shall be issued unless the governing body shows that the approval would violate a substantive provision on the city comprehensive plan or land use regulation as defined in ORS 197.015.

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**17.120.050 Administrative review and approval process.**

- ~~The planning director or other staff as designated by the city manager shall have the authority to review and approve or deny zoning compliance permits, or other permits for activities which are listed as permitted uses in all zones and overlay zones.~~
- A. ~~Forms. The forms identifying zoning compliance include the zoning compliance for building and the local government approval section of the building permit application.~~
  - B. ~~Administrative Decisions. A decision on a permit that may be administratively approved shall occur within ten (10) working days after receipt of a complete application.~~
  - C. ~~The planning director may submit applications that normally could be approved administratively to the planning commission.~~

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~~17.120.060 — Limited land use decisions, permits or actions.~~

- ~~A. — The planning commission conducts plan reviews, site reviews, design reviews and other reviews for land use activities in the following zoning districts: controlled development 1 (CD-1), controlled development 2 (CD-2), controlled development residential 1 (CD-R1), controlled development residential 2 (CD-2), light industrial and heavy industrial.~~
- ~~B. — The reviews described in subsection A occur during regularly scheduled public meetings, unless otherwise specified, and are required for land use proposals and their relationship to design, siting and other features as described in the appropriate areas of the zoning text. The decisions resulting from these public meetings are based upon the discretionary standards provided to regulate land uses in their appropriate zoning district. The decisions resulting from the public review are considered to be limited land use decisions.~~
- ~~C. — Complete applications will be reviewed by the Planning Department staff and scheduled for Planning Commission review as soon as practical, considering other previously submitted applications and requirements for public notification and hearings.~~
- ~~D. — Upon review and determination by city staff that the application is complete, a staff report may be prepared seven (7) days prior to the date of review.~~

~~17.120.070 — Notice requirements for public land use reviews or limited land use decisions.~~

~~Written notice for a public land use review or limited land use decision shall be provided to, where applicable, owners of property within one hundred (100) feet of the entire contiguous site for which the application is made. This list shall be compiled from the most recent property tax assessment roll on file with the city;~~

- ~~A. — A fourteen (14) day comment period, as specified in ORS 197.195 (3)(c)(a), shall be provided.~~
- ~~B. — The notice shall provide a summary of the request, a description and/or address of the site or subject property, the review criteria, the date, time and place of the review.~~
- ~~C. — The application and staff report (if one is prepared) are to be available throughout the comment period for review and copies shall be available at cost.~~
- ~~D. — Notice of the decision shall be provided to any individual who submits comments under subsection A of this section.~~
- ~~E. — Notice of the decision shall include a brief summary of the criteria, the decision and the explanation of right of appeal.~~

~~17.120.080 — Permits or land use approvals which require a public hearing.~~

- ~~A. — Decisions pertaining to the following types of land use proposals shall occur only after a public hearing has been held: zoning text amendment, zoning map amendment, Comprehensive Plan amendment, urban growth boundary amendment, subdivision or major land partition, conditional use permits, variances.~~
- ~~B. — Applications for proposed land uses requiring a public hearing shall be filed thirty (30) days prior to the next regularly scheduled planning commission meeting. If the application is deemed incomplete it shall be returned to the applicant within ten (10) days of filing with information describing the inadequacy.~~
- ~~C. — Upon review and determination that the application is complete, a staff report shall be prepared ten (10) days prior to the meeting at which the application is scheduled for public hearing. The application and staff report shall be available for public review.~~

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(10) days prior to the scheduled public hearing.

~~17.120.090 — Notice of public hearing.~~

~~A. Notice for a quasi-judicial land use hearing for a zone change or permit or an appeal of a decision of the planning director or planning commission shall be provided to (where applicable):~~

~~1. The public via a legal notice published in a newspaper of general circulation in the city at least ten (10) days prior to the hearing;~~

~~2. The applicant (and/or appellant, if applicable);~~

~~3. Participants in the hearing;~~

~~4. Owners of record on the most recent property tax assessment roll of property within two hundred fifty (250) feet of the property which is the subject of the notice; and~~

~~5. Public agencies, when applicable.~~

~~B. The notice shall:~~

~~1. Explain the nature of the application and the proposed use or uses which could or have been authorized;~~

~~2. List in general terms the applicable criteria from this title and the plan that apply to the application at issue;~~

~~3. Set forth the street address or other easily understood geographical reference to the subject property;~~

~~4. State the date, time and location of the hearing;~~

~~5. State that failure to raise an issue with sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal on that issue;~~

~~6. Be mailed at least twenty (20) days before the first evidentiary hearing before the planning commission or city council, or upon appeal of any hearing;~~

~~7. Include the name of a local government representative to contact and the telephone number where additional information may be obtained;~~

~~8. State that a copy of the application, the documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;~~

~~9. State that a copy of the staff report will be available for inspection at least seven days before the hearing at no cost and will be provided at reasonable cost;~~

~~10. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~

~~C. Failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such a notice was sent.~~

~~D. For all quasi-judicial land use hearings, notice shall be published seven and not more than twenty (20) days in advance.~~

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~~E. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.~~

~~F. For each quasi-judicial land use hearing, an affidavit shall be completed representing that the required notice was provided to the appropriate individuals.~~

~~G. Any party who would have had a right to receive notice if a hearing had been scheduled or who is adversely affected or aggrieved by the decision may appeal a hearings officer's or planning director's decision. Under this section, such an appeal shall be to the planning commission and shall be de novo.~~

~~17.120.100 — Availability of hearings information:~~

- ~~A. The documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time the notice is provided as per Section 17.120.090.~~
- ~~B. Interested parties are, as required by ordinance or statute, entitled to an opportunity to be heard by a tribunal that is impartial, to have the proceedings recorded and to have a decision based on evidence in the whole record and defined by findings of fact.~~
- ~~C. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.~~
- ~~D. No person shall speak without obtaining permission from the hearings officer.~~
- ~~E. No person shall testify without first receiving recognition from the hearings officer and stating his or her full name and residence address.~~
- ~~F. The hearings officer may require participants to sign a form and furnish their resident address prior to offering verbal testimony.~~
- ~~G. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by the city staff shall be deemed relevant, material and competent unless objected to by any interested party with good cause and at the first available opportunity.~~
- ~~H. There shall be no audience demonstrations, such as applause, cheering, display or signs, or other conduct disruptive to the hearing. Such conduct may be cause for expulsion of those parties conducting the disruptive activity or immediate termination of the hearing by the commission.~~
- ~~I. The hearings officer, commission members and, with the approval of the hearings officer, city staff may question and cross-examine any person present who offers testimony in writing or orally.~~

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~~17.120.110 — Hearings procedure:~~

- ~~A. At the commencement of a hearing, a statement shall be made to those in attendance that states:~~
  - ~~1. A listing of the applicable substantive criteria;~~
  - ~~2. That testimony and evidence must be directed toward the criteria described in subsection (A)(1) of this section or other criteria in the plan or land use regulation which the person believes to apply to the decision;~~
  - ~~3. That failure to raise an issue with sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal on that issue;~~
  - ~~4. That if a participant at the hearing so requests before the hearing concludes, the record shall be kept open for at least seven days unless there is a continuance;~~
  - ~~5. That any party shall be entitled to a continuance of the hearing if anyone submits documents or evidence in support of the application supplementing the documents or evidence submitted by the applicant. Such a continuance shall not be subject to the one hundred twenty (120) day time limitation of ORS 227.178.~~

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~~B. When the decision-making body reopens a record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence, testimony or criteria for decision making. For each hearing under this section, findings of fact shall be adopted by the decision-making body. In lieu of written findings of fact, the minutes of the hearing may be used.~~

~~17.120.120 — Conflicts of interest and ex parte contacts:~~

~~A. A member of the commission shall not participate in any proceedings, hearing or action as a member of the commission in an action or hearing in which any of the following parties has a direct or substantial financial interest or when any of the following situations exist:~~

- ~~1. The member or his or her spouse, brother, sister, child, parent, father in law, or mother in law;~~
- ~~2. Any business in which the member is than serving or has served within the previous two years;~~
- ~~3. Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment;~~
- ~~4. If the commission member owns property within the notice area for that hearing; or~~
- ~~5. For any other reason the commission member has determined that he or she cannot participate in the hearing and decision in an impartial manner.~~

~~B. An abstaining or disqualified commission member may represent himself or herself, a client or any other member of the public at a hearing, provided he/she:~~

- ~~1. Abstains from the vote of the proposal;~~
- ~~2. Removes himself or herself from the commission area and joins the audience;~~
- ~~3. Makes full disclosure of his or her status and position at the time of addressing the commission.~~

~~C. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.~~

~~D. No decision or action of a planning commissioner or city council member shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision making body, if the member of the decision making body receiving the contact:~~

- ~~1. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and~~
- ~~2. Makes a public announcement during the hearing of the content of the ex parte contact and gives an opportunity to rebut the substance of the information.~~

~~E. A communication between city staff and the planning commission or city council is not to be considered an ex parte contact for the purposes of subsection D of this section.~~

~~F. No officer or employee of the city who has a financial or other private interest shall participate in discussion with or give an official opinion to the commission on the proposal without first declaring for the record the nature and extent of such interest.~~

~~17.120.130 — Order of hearing procedures:~~

~~The hearings officer, in conducting the hearing, shall:~~

- ~~A. Commence the hearing: Announce the nature and purpose of the hearing, summarize the rules for the conduct of the hearing;~~
- ~~B. Call for abstentions: Inquire of the commission whether any member thereof wishes to~~

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~~abstain from participating in the hearing. Any commission member then announcing his or her abstention shall identify the reasons for abstaining and shall not participate in discussion of the proposal (from the commission chair) or vote on the proposal and shall step down from the commission area;~~

~~C. — Objections to jurisdiction or procedural challenges: Inquire of the audience whether there~~

are any objections to the jurisdiction of the commission to hear the matter and, if such objections are received, conduct such further inquiry as necessary to determine the question. The hearings officer shall terminate the hearing if his or her inquiry results in substantial evidence that the commission lacks jurisdiction or the procedural requirements of this title were not met. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the commission;

- D. ~~Reading of the staff report and hearings requirements: Summarize the nature of the proposal, explain any graphic or pictorial displays which are a part of the record, summarize the staff report and provide such other information as may be requested by the commission. The hearings officer may direct staff to perform this duty;~~
- E. ~~Proponent's case: Determine whether the proponent will conduct his or her case in person or by representative. The applicant (proponent) shall first be heard and persons in favor of the proponent's proposal shall next be heard;~~
- F. ~~Cross-examination of proponents: Allow opponents, upon recognition by the hearings officer, to submit questions directly to the proponents. Proponents shall be given a reasonable time to respond solely to the questions.~~
- G. ~~Opponent's case: Opponents shall be heard in the following order:~~
  - 1. ~~Groups represented by counsel or a spokesperson shall be allowed by the hearings officer to first proceed;~~
  - 2. ~~Persons who received notice of the hearing or who were entitled to receive notice;~~
  - 3. ~~Persons who did not receive notice and who were not entitled to notice;~~
- H. ~~Cross-examination of opponents: Allow proponents, upon recognition of the hearings officer, to submit questions to opponents who have testified. Opponents shall be given a reasonable time to respond solely to the questions;~~
- I. ~~Public agencies: Invite representatives of any city, state agency, regional authority or municipal or quasi-municipal corporation existing pursuant to law to next be heard;~~
- J. ~~Rebuttal evidence: Allow first the proponent and then the opponents to offer rebuttal evidence and testimony;~~
- K. ~~Close hearing and deliberation by commission: The hearings officer shall close the hearing and the commission shall deliberate the proposal. The commission shall either make its decision and state its findings, which may incorporate findings proposed by the proponent, opponents, the staff, or may continue its deliberations to a subsequent meeting as aforesaid. The subsequent meeting shall be for the purpose of continued deliberation and/or adoption of findings of fact and shall not allow for additional submission of testimony except upon decision of the commission to reopen the hearing.~~

~~17.120.140 — Official notice.~~

- A. ~~The commission may take official notice in the record of a hearing of any of the following:~~
  - 1. ~~All facts which are judicially noticeable; and~~
  - 2. ~~The Charter, ordinances, resolutions, rules, regulations and official policies (if written) of the city of Bandon.~~
- B. ~~Matters officially noticed need not be established by evidence and may be considered by the commission in the determination of the proposal.~~

~~17.120.150 — Challenge for bias or conflicts.~~

Any proponent or opponent of a proposal to be heard by the commission may challenge the qualifications of any commission member to participate in such hearing and decision. Such challenge must state facts in writing, by affidavit, that are relied upon by the submitting party relating to a commission member's bias, prejudgment, personal interest or other facts from which the party has concluded that the commission member should not participate and could not make a decision in an impartial manner.

- A. Such written challenge must be delivered by personal service to the city and the commission member whose qualifications are being challenged not less than forty-eight (48) hours prior to the proceeding.
- B. Such challenge shall be noted in the record.
- C. The commission member who is challenged may state on the record why he or she feels the challenge is wrong.

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#### 17.120.160 Authority of hearings officer.

The hearings officer shall have authority to:

- A. Rule on challenges to disqualify a commission member;
- B. Regulate the course and decorum of the hearing;
- C. Dispose of procedural requests or similar matters;
- D. Rule on offers of proof and relevancy of evidence and testimony;
- E. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations, cross-examination of witnesses and rebuttal testimony; and
- F. Take other action authorized by the council appropriate for conduct commensurate with the nature of the hearing.

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#### 17.120.170 Quorum.

- A. A majority of the commission shall constitute a quorum.
- B. An abstaining or disqualified commission member may be counted for the purpose of forming a quorum.

#### 17.120.180 Fees.

The Bandon city council shall set planning, zoning and permit fees by resolution. Such fees shall be set at an amount no more than the actual or average cost of providing the planning or zoning service, excluding the cost of preparation of a written transcript up to five hundred dollars (\$500.00) plus up to one half the actual cost over five hundred dollars (\$500.00).

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#### 17.120.190 Interpretation.

The provisions of this title shall be held to be the minimum requirements necessary to fulfill the objectives of this title. Where conditions are imposed under or by provisions of this title or any other ordinance, resolution or regulation, the provisions which are more restrictive shall apply.

#### 17.120.200 Enforcement.

The city manager or designate shall have the power and duty to enforce the provisions of this title. No public employee or official of the city shall issue any permit or license for any

use, activity or structure which violates provisions of this title. Any permit or license issued in

conflict with the provisions of this title shall be void.

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**17.120.210 — Violations.**

Any land use, building or structure occurring, set up, erected, constructed, altered, enlarged, converted, moved or maintained in a manner contrary to the provisions of this title shall be declared to be unlawful and the city manager or designate shall commence with actions or proceedings for the abatement, removal or discontinuance of the use. The city manager or designate may take steps and apply to courts that may have jurisdiction to grant relief from violations.

**17.120.220 — Penalty.**

Violation of this title is punishable in accordance with Chapter 1, 16.

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## Chapter 17.124 APPEALS

### Sections:

~~17.124.010 Requirements and procedures for appeals.~~

~~17.124.020 Review of records.~~

~~17.124.030 Appeals including additional evidence or de novo hearings.~~

~~17.124.040 Notice of final decision.~~

~~17.124.010 Requirements and procedures for appeals.~~

~~A. An appeal of an administrative decision shall be made to the planning commission.~~

~~B. An appeal of a planning commission decision shall be made to the city council. A party to the action of the commission may appeal the action to the city council by filing a written notice of appeal with the city recorder within ten (10) days of the notice of decision being mailed. Within twenty (20) days following the date of a decision by the commission, the City Council may, on its own motion, initiate proceedings to review the decision.~~

~~C. An appeal of a decision shall contain the following:~~

~~1. An identification of the decision sought to be reviewed, including the name, site, location information and the date of the decision;~~

~~2. A statement of the interest of the person seeking the review and that the individual was a party to the initial proceedings;~~

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~~3. The specific grounds upon which the review and appeal are being based. The criteria against which the appeal and review are being requested were addressed during the original determination.~~

~~D. Scope of Review. The reviewing body shall determine, as a nonpublic hearing item, that the scope of the review and appeal will be one of the following:~~

- ~~1. Restricted to the record of the decision being appealed;~~
- ~~2. Limited to the admission of additional evidence on such issues of additional evidence as the reviewing body determines necessary for a proper resolution of the matter;~~
- ~~3. A de novo hearing on the merits of the appeal.~~

~~17.124.020 Review of records.~~

~~A. Unless otherwise provided for by the reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include the following:~~

- ~~1. A factual report prepared by the city manager;~~
- ~~2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;~~
- ~~3. The final order and findings of fact adopted in support of the decision being appealed;~~
- ~~4. The request for an appeal filed by the appellant;~~



~~5. The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.~~

~~B. All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issue(s) that are the subject of the review.~~

~~C. The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.~~

~~D. In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.~~

~~E. The appellant shall bear the burden of proof.~~

~~17.124.030 Appeals including additional evidence or de novo hearings.~~

~~A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:~~

~~1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or~~

~~2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and~~

~~3. The request is not necessitated by improper or unreasonable conduct of the requesting~~

~~party or by a failure to present evidence that was available at the time of the previous review.~~

~~B. — Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of public hearings.~~

~~C. — All testimony, evidence and other material from the record of the previous considerations shall be included in the record of the review.~~

~~17.124.040 — Notice of final decision.~~

~~A. — A written notice of the final decision of an appeal under this chapter shall be mailed to all participants of the hearing and those parties in the notice area within seven days of the decision.~~

~~A participant in the hearing is one who submits written or oral testimony in the hearing record.~~

~~B. — The notice of final decision shall contain:~~

~~1. — The name of the applicant;~~

~~2. — A description of the decision and whether it was granted or denied, including any conditions placed on the approval;~~

~~3. — The date of the final decision or the signing of findings of fact.~~

~~C. — A record shall be kept for one year of the results of all hearings subject to this chapter. This record shall be available to the public.~~