

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 Plats~~ 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

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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
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- 16.04.130 Violations.
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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

<u>Approvals*</u>	<u>Review Procedures</u>	<u>Applicable Regulations</u>
Zoning Compliance	Type I	
Adjustment	Type II	
Annexation	Type IV	
Certificate of Appropriateness	Type II	
Code Interpretation	Type II	

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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.

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.

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- 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 period 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:

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- a. Include the information requested on the application form;
- b. Address the criteria in sufficient detail for review and action; and
- c. Be filed with the required fee.

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.

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:

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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.

B. Procedure.

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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:

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- 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 written comments or who is otherwise legally entitled to notice.

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.

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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.

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.

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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;
- (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.

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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

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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.

A. Application Requirements.

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1. Application Forms. Applications requiring Quasi-Judicial 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:

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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.

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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.

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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.

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;

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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.

3. Presenting and receiving evidence.

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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

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:

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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.

7. The Notice of Quasi-Judicial 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 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

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b. Any other person who testified orally or in writing during the subject public hearing before the close of the public record.

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.

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

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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.

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 (DLCDC) 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);

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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.

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4. For each mailing and publication of notice, the City Planning Department shall keep an affidavit of mailing/publication in the record.

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

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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.

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.

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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.

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:~~

~~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.~~

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Chapter 16.08

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LAND DIVISIONS & PROPERTY LINE ADJUSTMENTS

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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

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16.08.010 Purpose

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

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

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1. Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one (1) calendar year.
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).

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

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

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

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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.

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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.

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.

A-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. 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. (See also, Section 4.3.040 Pre-Planning for Large Sites.)

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 Chapter 3.6. 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.

F. Adequate Access. All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant to Chapter 3.3.

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~~4.3.16.08.030~~ Preliminary Plat Approval Process

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~~A. 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~~.

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~~B. 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.

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~~C. 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:

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

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

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

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~~4. 4.~~ There have been no changes to the applicable Code provisions on which the approval

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was based. If such changes have occurred, a new preliminary plat application shall be required; and

~~4.~~

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

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~~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 the following criteria:

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

~~1.~~

—

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

~~2.~~

—

~~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;

~~3.~~

—

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

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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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2. ~~2.~~

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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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3. ~~3.~~

—

4. ~~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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~~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 16.044-4.040.B.

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E.

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4.316.08.050 Lot Size Averaging, Flag Lots, and Infill Development

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~~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.~~

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A. ~~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:

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~~1.~~ 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;

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1.

~~2.~~ 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

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~~3.~~ 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.

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~~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.~~

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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.~~

B.

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.~~

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

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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:

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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.

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~~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.

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~~C. A.~~

~~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).

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~~D. A.~~

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

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16.08.060 Preliminary Plat Submission Requirements

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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 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;

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f. On slopes exceeding an average grade of 10 percent, as determined by the City 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;

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h. Proposed method of storm water drainage and treatment, if required, pursuant to Chapter 16.40;

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i. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;

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j. Evidence of compliance with applicable overlay zones, including but not limited to City of Bandon Flood Plain Overlay and Hazards Overlay; and

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k. Evidence of contact with the applicable road authority for proposed new street connections.

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16.08.070 Preliminary Plat Approval Criteria

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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:

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1. The land division application shall conform to the requirements of Chapter 16.08;

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2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Title 17 (Zoning), except as modified by the provisions of Chapter 16.08 (e.g., lot size averaging);

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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;

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4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;

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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;

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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;

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7. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and

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8. Evidence that improvements or conditions required by the City, road authority, Coos County,

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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.

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16.08.080 Land Division-Related Variances

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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.

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16.08.090 Final Plat Submission Requirements and Approval Criteria

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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:

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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.

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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:

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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;

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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;

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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;

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4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;

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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;

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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

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and referenced on the plat:

7. Verification by the City that water and sanitary sewer service is available to every lot 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 92.000;~~

~~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:~~

<u>Overall Site</u>	<u>Contour</u>
<u>Elevation Difference</u>	<u>Interval</u>
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.~~

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.~~

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~~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.~~

~~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.~~

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.~~

~~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.~~

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.

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.

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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.

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.

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.

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;
 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.

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.)

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:

- 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.

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

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;
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

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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.

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, as provided in Article 2, 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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16.36.050 Expiration

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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

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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.

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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. (

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16.40.020 Bond.

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

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~~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;

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~~2.~~ 2. Cash;

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

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

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.

16.40.030 Fees.

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

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.

16.40.050 Streets.

- 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.

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. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
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

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impractical.

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

- 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.
- 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 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. 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.
- 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.
- 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.
- 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.
- 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.

16.40.060 Blocks.

- 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.
- 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.
- C. Easements.
 - 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. 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. 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)

16.40.070 Building sites.

- 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. 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. 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.

- 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. 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. 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 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. Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- B. Fill slopes shall not be steeper than two feet horizontally to one foot vertically.
- 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. 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. 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. 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:

- 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.
- 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.
- 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.
- 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.

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

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.

16.40.140 Improvements in developments.

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

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.

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 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.

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.

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.

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

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.

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

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

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.

16.40.160 Improvements on substantial developments.

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

to provide for coordination of proposed developments with city comprehensive plans, implementing ordinances and city standards, criteria and guidelines. The overall purpose is to require that those developments which substantially impact the services shall pay their fair share.

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.

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.

D. Extensions. Any commercial development 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.

E. Variations. Variance procedures and standards for this section shall be those as set out in Title 17, now and as amended.

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, 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-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 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), 2004)~~

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.~~