

**STAFF REPORT
OF THE PLANNING DEPARTMENT
FOR THE CITY OF BANDON, OREGON**



FILE NUMBER: 22-035, Code Cleanup

REQUEST: Modify Titles 16 & 17 of the Bandon Municipal Code to amend/clarify errors and mistakes, remove language requiring Type II process for housing development in residential zones, and clarify permitted, conditional, and non-permitted uses in each zone.

LEAD CITY STAFF: Dana Nichols, Planning Manager

PUBLIC HEARING DATE: April 28th, 2022 at 7:00 PM

NOTICING INFORMATION: PAPA Notice Submitted to DLCD on March 23rd, 2022
Notice of Public Hearing mailed to affected parties on April 6th, 2022
Notice published in The World on April 15th, 2022

APPLICABLE CRITERIA: BMC (Bandon Municipal Code) Chapter 16.32, Zone Changes and Amendments

Purpose of Staff Report:

Staff reports provide the reviewing body and community members with information regarding current land use requests and staff's analysis of the application. The staff report provides preliminary information and recommendations. The reviewing body will consider the staff report as well as public testimony and other materials submitted to the City in writing, when making decisions on the application.

I. Background

The Planning Commission's work plan identified a "Continuing Code Cleanup and Audit" to be completed annually in an effort to clarify items that are unclear and address inconsistencies. The Commission has reviewed a much longer list of the possible cleanup items, which was narrowed down by staff to address the most pressing. These generally include:

In Title 16

- Modifications to 16.04.120 Interpretations, to allow for staff to request interpretations from the Planning Commission in situations where the code is unclear.
- Remove a suggestion from the model code for planned densities in subdivisions. These numbers can be updated after our Housing Needs Analysis is complete.
- Require fewer copies of plans be submitted. One paper copy is scanned in for the digital file. Copies are made as needed and the fee schedule is set up to only charge the applicant with actual cost.
- Clarify where Bed & Breakfasts and Vacation Rental Dwellings are allowed. The Conditional Use section was not updated after previous code updates were made to specific zones.

In Title 17

- Change "Two-Family Dwelling" to "Duplex."
- Combine "Adult Foster Care Home" with "Residential Care Home" to align with ORS 197.665 (residential homes must be allowed in any residential zone, and in a commercial zone that allows single-family dwellings) and 197.670 (must amend zoning ordinance to comply with 197.660 – Definitions).
- Reference chapter that contains special use standards for ADUs.
- Clarify that a park must be public to be allowed.
- Broaden interpretation of "Government structure or use" to include community services and emergency services.
- Clarify the type of parking allowed as a conditional use.
- Differentiate between in-patient and out-patient services. Update definition of "drugstore" to meet modern demand.
- A "residential care facility" must be a permitted use in any zone where multi-family is a permitted use and must be a conditional use in any zone where multi-family is a conditional use (ORS 197.667).
- Remove PUDs as a use because the land division code outlines when and where they are allowed.
- Combine various commercial uses listed throughout zones as "Commercial retail sales and services."
- Recommended clear and objective language for "view line." Staff crafted this definition based on previous interpretations made by the city council and discussions of the planning commission. The commission may choose to amend this definition further.

- Per ORS 197.307, remove requirements for plan review and remove the distinction about minor modifications. All housing must have clear and objective standards, conditions, and procedures.
- Can no longer build a new Bed & Breakfast, so remove reference.
- Staff recommends removing the requirement in CD-2 and CD-3 that all structures utilize natural wood material and be of a rustic appearance and/or utilize scale, color, and materials that will enhance and promulgate the small town/village feel, as this is not clear and objective. The Planning Commission may also choose to amend these standards to instead be clear and objective rather than removing them.
- Staff at the City and the Port have not been able to locate the “Port of Bandon Riverwalk Master Plan.” Staff recommends removing this requirement as this is not clear nor objective.
- Add “exceptions to height limitations” to CD-R1 zone as they seem to have been mistakenly left out.
- Recommended change to develop an inclusive, clear and objective definition for “apartments.” Staff recommends *residential uses accessory to other non-residential conditional or permitted uses* as a conditional use, but the Planning Commission may choose to amend that definition.
- Define offices broadly. May want to discuss any restrictions to specific types of offices.
- Align definitions throughout zones for recreation facilities and tourist facilities.
- Remove requirement for parking space with an Accessory Dwelling Unit to comply with ORS 197.312.

II Proposed Ordinance Language

See attached draft code with track changes showing recommended modifications.

III. Procedural – Required Burden of Proof

The proposed ordinance will amend Titles 16 and 17 of the Bandon Municipal Code. A legislative amendment is subject to Chapter 16.32.020 of the Bandon Municipal Code, which is as follows:

The Planning Commission (and ultimately the City Council) shall, “review the proposed 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.”

Staff finds that the proposed amendment is consistent with the City Comprehensive Plan and that the amendment will not adversely affect city development. The proposed changes to the code are meant to clarify and streamline, not to make any substantial changes to allowable uses or standards. The City’s policy is to provide appropriate, well-integrated, non-conflicting and orderly areas to accommodate present and future needs of the community, which staff finds this proposal supports. The Comprehensive Plan also acknowledges that effectiveness of the plan comes from the implementation ordinances, which include the Bandon Municipal Code.

IV. Recommendations

Staff recommends, if needed, continuing the hearing for additional deliberation only to the May 26th, 2022 meeting at 7:00 pm.

The Commission is also free to amend the ordinance as deemed appropriate based upon testimony received at the meeting and comments entered into the record and make a recommendation to the City Council to approve. The Commission may also recommend that the proposed changes not be adopted or forward with the proposal without a recommendation.

A potential motion of the Planning Commission is as follows:

"I move to recommend to the City Council adoption of the land use ordinance as proposed (and/or as amended here) for the adoption of code changes to Titles 16 and 17 of the Bandon Municipal Code."