

ORDINANCE NO. 1336 (as amended)

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ORDINANCE NO. 1336

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR
BANDON, OREGON AND REPEALING ORDINANCE NO. 1313.

The City of Bandon ordains as follows:

Section 1. The City of Bandon adopted in 1991 Ordinance No. 1291 as a result of Periodic Review. Various modifications were subsequently made to the Zoning Ordinance and Zoning Map, leading to the 1993 adoption of Ordinance No. 1313, which repealed Ordinance 1291. There have been additional modifications since 1993, and there has been a need to make additional minor and technical changes to improve the organization of the Zoning Ordinance and changes to the Zoning Map to correct certain errors and to create conformance with State of Oregon regulatory changes. This is a reprint of Ordinance No. 1336, which includes typographical corrections and amendments made since 1994.

Section 2. The Zoning Ordinance enacted herein including the Zoning Map shall be in the form of the following compilation.

ARTICLE I

Introductory Provisions

Section 1.000. Title. This ordinance shall be known as the "Zoning Ordinance" of the City of Bandon.

Section 1.010. Purposes. The purposes of this ordinance are:

1. To implement the City's comprehensive plan;
2. To comply with the provisions of state law and the Statewide Planning Goals.
3. To encourage the efficient and appropriate use of land;
4. To conserve and stabilize property values;
5. To aid in the rendering of fire and police protection;
6. To provide for adequate light and air;
7. To avoid congestion;
8. To encourage orderly growth of the City;
9. To facilitate adequate provision of public facilities;

10. To protect important natural resources, including open space, mineral and aggregate sources, energy sources, fish and wildlife resources, scenic views and sites, water areas, wetlands, and historical and archaeological sites;
11. To protect and enhance the quality of air, land and water resources;
12. To protect life and property from natural hazard;
13. To provide adequate space for recreational opportunity;
14. To promote the economic well-being of the City and to provide areas needed for economic development;
15. To provide adequate space for housing;
16. To reserve and protect areas needed for educational facilities;
17. To conserve energy;
18. To provide for orderly and efficient growth of the City; and
19. To promote the public health, safety, convenience and general welfare.

Section 1.020. Definitions. As used in this ordinance, 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:

1. Accessory Structure or Use. 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.
2. Accessory Dwelling Unit (Or Apartment). A dwelling unit that has been added onto, or created within, a single-family house. (Ord. 1377: 10-21-96)
3. Alley. 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.
4. Bed and Breakfast (B&B). 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 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 1800 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.

5. Bed and Breakfast Inn (B&B Inn). 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 333-170-000 through 333-170-130, 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 1800 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 ordinance except as specifically modified in this definition.
6. Board. The Architectural Review Board.
7. Building. A structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.
8. Business Office. The office of an enterprise engaged in providing services for a fee.
(Ord. 1378: 2-3-97)
9. City. The City of Bandon, Oregon.
10. COA. Certificate of Appropriateness.
11. Commission. The Planning Commission of the City.
12. Condominium. A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.
(Ord. 1377: 10-21-96)
13. Condominium Association. The community association that administers and maintains the common property and common elements of a condominium. (Ord. 1377: 10-21-96)
14. Condominium Hotel. A building constructed, maintained,

- operated, and managed as a hotel in which each room is individually owned and in which some or all 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. (Ord. 1377: 10-21-96)
15. Council. The Common Council of the City.
 16. Day Care. The act of caring for another person's children at a site, usually, but not always, for a fee.
 17. Day Care (Family Care Provider). This definition applies only to any family day care provider who provides care in the home of the provider to fewer than 13 children, including the children of the provider, regardless of full time or part-time status. Such use shall be considered a residential use of property for zoning purposes. The home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings. Conditions on the establishment and maintenance of a family day care provider's home can be no more restrictive than conditions imposed on other residential dwellings in the same zone.
 18. Density. A measure of dwelling units per acre of land. Gross density is the number of dwelling units for each acre of land including areas devoted to streets, parks, sidewalks, and other public rights-of-way. Net density is dwelling units per acre, excluding the aforementioned public uses.
 19. Density Bonus. 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. (Ord. 1377: 10-21-96)
 20. Drive-up Uses. 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.
 21. Duplex. A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. (Ord. 1377: 10-21-96)
 22. Dwelling. A structure or portion thereof that is used exclusively for human habitation. (Ord. 1377: 10-21-96)
 23. Dwelling, Attached. A one-family dwelling attached to two or more one-family dwellings by common vertical walls. (Ord. 1377: 10-21-96)
 24. Dwelling, Detached. A dwelling that is not attached to any other dwelling by any means.

Comment: The detached dwelling does not have any roof, wall, or floor in common with any other dwelling. (Ord. 1377: 10-21-96)

25. Dwelling, Garden Apartment. One or more two- or three-story, multi-family structures, generally built at a gross density of ten to fifteen dwelling units per acre, with each structure containing eight to twenty dwelling units and including related off-street parking, open space, and recreation. (See Dwelling, Multi-family, See Figure 1.) (Ord. 1377: 10-21-96)

Comment: A garden apartment is actually a multi-family development. Development controls should define the commonly accepted configuration of a garden apartment in terms of density (usually ten to fifteen dwelling units per acre in a suburban community, somewhat higher in an urban area, and lower in a rural area) height (usually a maximum of three stories or thirty-five feet, with a maximum of three levels of dwelling units), and a maximum length of a structure (usually between 150 to 200 feet). Access is usually from a common hall, although individual entrances can be provided. Dwelling units can be located back-to-back, adjacent, and on top of each other.

26. Dwelling, Mid-Rise. An apartment building containing from three to seven stories. (See Figure 2). (Ord. 1377: 10-21-96)

27. Dwelling, Multi-Family. A building containing three or more dwelling units, including units that are located one over the other. (Ord. 1377: 10-21-96)

Comment: Multi-family buildings include garden apartments and mid-rise apartment buildings.

28. Dwelling, Patio Home. A one-family dwelling on a separate lot with open space set-backs on three sides and with a court. (See Figure 3). (Ord. 1377: 10-21-96)

Comment: Patio homes may be attached to similar houses on adjacent lots and still meet this definition, in which case they are known as zero lot line homes.

29. Dwelling, Quadruplex. Four attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with adjoining unit or units. (See Figure 4). (Ord. 1377: 10-21-96)

30. Dwelling, Seasonal. A dwelling unit not used as a principal residence that may be occupied weekends and for brief periods during the year.

(Ord. 1377: 10-21-96)

Comment: Brief period is difficult to define. Seasonal dwellings in oceanfront or lake areas may be occupied for three

to four months. In ski areas, six months may be the norm. At one time, seasonal units often lacked heat and insulation.

Today, most municipalities do not make any distinction between seasonal and all-year-round units; both must meet the same standards.

31. Dwelling, Single-Family, Detached. A building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards. (See Figure. 5). (Ord. 1377: 10-21-96)
32. Dwelling, Single-Family, Semi-Detached. A one-family dwelling attached to one other one-family dwelling by a common vertical wall, with each dwelling located on a separate lot. (See Figure 6). (Ord. 1377: 10-21-96)
Comment: The semi-detached 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 semi-detached dwelling also could be the end unit of a townhouse row, a patio house, or a variety of zero lot line houses.
33. Dwelling, Townhouse. 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. (See Figure 7). (Ord. 1377: 10-21-96)
Comment: Townhouses (single-family attached dwellings) usually have separate utilities, such as individual hot water and heating systems, separate electrical meters, and so forth. However, in some condominium developments, the condominium association may arrange for bulk purchase of certain utilities and distribute it to individual dwelling units. Consequently, the definition normally would not contain a requirement for separate utility systems. In some states, Florida, for example, one-story, single-family attached dwellings are called "villas".
34. Dwelling, Triplex. A building containing three dwelling units, each of which has direct access to the outside or to a common hall. (Ord. 1377: 10-21-96)
35. Dwelling, Two-Family. 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. (Ord. 1377: 10-21-96)

36. Dwelling Unit. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. (Ord. 1377: 10-21-96)
37. Dwelling Unit, Efficiency. A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities. (Ord. 1377: 10-21-96)
38. Family. 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.
39. Farming, Farm Use. 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.
40. Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas. (Ord. 1377: 10-21-96)
41. Fence, Sight Obscuring. A fence or evergreen planting arranged in such a way as to obstruct vision.
42. Floor Area. The area included within the surrounding walls of a building, or portion thereof, exclusive of vent shafts and courts.
43. Foredune. 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 (back side).
44. Garage, Private. An accessory building or portion of a main building used for the noncommercial parking or storage of vehicles.
45. Garage, Public. 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.
46. Grade (Ground Level). The average of the native ground level or the finished ground level, whichever is less, measured at the center of all walls of a building. In case a wall is parallel to, and within five feet of a sidewalk, the ground

- level shall be measured at the sidewalk.
47. Hearing, Legislative. A hearing concerning the creation of law or policy, as in a hearing on a new or amended ordinance, plan, plan policy or map.
 48. Hearing, Quasi-Judicial. 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 small property.
 49. Height of Building or Structure. The vertical distance from the "grade" to the highest point of the roof. On slopes, this is the average of the four elevations of the structure measured at the center of the wall or structure.
 50. Home Occupation. 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 30 percent of the floor area of the dwelling. A home occupation is an accessory use.
 51. Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.
 52. Hotel. A building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.
 53. Kennel. 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.
 54. Land Use Decision. A land use decision includes a final decision or determination that concerns the adoption, amendment or application of:
 - a) The goals;
 - b) A comprehensive plan provision;
 - c) A land use regulation.
 - d) A new land use regulation.

A land use decision does not include a decision:

- a) Which is made under land use standards which do not require interpretation or the exercise of factual, policy or legal judgment;
 - b) Which approves with conditions or denies a subdivision or partition, as described in ORS Chapter 92, located within an urban growth boundary where the decision is consistent with land use standards; or
 - c) Which approves or denies a building permit made under land use standards which do not require interpretation or the exercise of factual, policy or legal judgement.
55. Limited Land Use Decision. A land use decision based upon discretionary standards designed to regulate the physical characteristics of a land use which is permitted outright, including but not limited to site reviews, plan reviews and design reviews.
56. Lot. A parcel or tract of land.
57. Lot Area. The total horizontal area within the lot lines of a lot.
58. Lot, Corner. A lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.
59. Lot Depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.
60. Lot, Interior. A lot other than a corner lot.
61. Lot Line. The property line bounding a lot.
62. Lot Line Adjustment. A relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards set forth in this ordinance.
63. Lot Line, Front. In the case of an interior lot, the lot line separating the lot from the street other than an alley; and in the case of a corner lot, the shortest lot line along a street other than an alley.
64. Lot Line, Rear. A lot line which is opposite and most distant from the front line, and in the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.
65. Lot Line, Side. Any lot line not a front or rear lot line.
66. Lot Width. The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines.
67. Manufactured Dwelling. A manufactured home is 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) 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 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 3 feet in height for each 12 feet in width;
 - (4) be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the 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 Good 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 cited in this ordinance.

68. Mobile Home. 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:

- a) Constructed before January 1, 1962;
 - b) 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
 - c) Mobile Homes and Manufactured Homes constructed between June 5, 1976 and April 1, 1992 and met the construction requirements in place during that period.
69. Mobile Home Park or Manufactured Dwelling Park. A lot, tract, or parcel with four or more spaces for rent within 500 feet of one another (ORS 197.490). Mobile home parks cannot be established on land zoned for commercial or industrial use, though access can be through a commercial or industrial zone if no other access exists.
70. Motel. 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.
71. Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, institution, or government. (Ord. 1378: 2-3-97)
72. Old Town. The geographic area within the City in which the provisions of Section 6.400 to 6.590 (Architectural Review Overlay Zone (AR) and shown on the "Architectural Review Overlay Zone Map") are applicable.
73. Nonconforming Structure or Use. A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.
74. Parking Space. A rectangular area together with maneuvering and access space sufficient to permit an automobile to park within the area.
75. Person. Every natural person, firm, partnership, association or corporation.
76. Planned Unit Development (P.U.D.). 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. (Ord. 1377: 10-21-96)

77. Professional Office. The office of a member of a recognized profession maintained for the conduct of that profession. (Ord. 1378: 2-3-97)
78. Recreational Vehicle. 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.
79. Residential Facility. A facility licensed under ORS 443.400 to 443.455 for 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.
80. Residential Care Home. A residence for five or fewer unrelated physically or handicapped persons and for staff persons who need not be related to each other or to any other home resident. Such use shall be considered a residential use of property for zoning purposes. The home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. Conditions on the establishment and maintenance of a residential home in an area zoned for residential or commercial use can be no more restrictive than conditions imposed on other residential dwellings in the same zone.
81. Screening. See fence, sight-obscuring.
82. Service Drive. 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.
83. Sign. Any device designed to inform or to attract the attention of persons not on the premises. The area of a sign shall be the total of the exposed exterior display surface.
84. Sign, Reader board. Any sign which can accommodate the manual change of wording, copy or text.
85. Sign, electronic display. A computer operated sign with capacity for text and or graphic information.
86. Story. That 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 grade, the basement or cellar shall be considered a story.

87. Street. The entire width between the right-of-way lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and including the terms "road", "highway", "lane", "place", "avenue", or other similar designations.
88. Structure. 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.
89. Structural alteration. 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.
90. Trailer house. A building or vehicle which was originally designed or presently constructed to be used as a human dwelling or lodging place and to be movable from place to place over streets.
91. Trailer park. 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.
92. Use. The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.
93. Vacation Rental Dwelling (VRD). A dwelling unit 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. (Ord. 1377: 10-21-96)
94. Vision clearance area. A triangular area on a lot at the intersection of two streets, or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines for a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures or temporary or permanent obstructions exceeding the size specified in the ordinance measured from the top of the curb or, where no curb exists, from the finished grade at the nearest property line.
95. Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support,

a prevalence of vegetation typically adapted to life in saturated soil conditions.

An area of privately owned land which otherwise satisfied the definition of a wetland is not defined as a wetland if it was created by human activity after the date of a jurisdiction's acknowledgment as part of an approved development project. This exclusion does not apply to mitigation areas.

96. Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.
97. Yard, front. A yard between side lot lines, and measured horizontally at right angles to the front lot line, from the front lot line to the nearest point of the nearest building.
98. Yard, rear. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.
99. Yard, side. An open space between the front and rear yards measured horizontally at right angles from the side lot line to the nearest point of a building.

Section 1.030. Compliance with Ordinance Provisions.

1. No structure or lot shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this ordinance.
2. The Planning Commission may rule that a use not specifically listed in the allowed uses of a zone shall be included among the allowed uses if the use is of the general type and is similar to the allowed uses. However, this does not authorize the inclusion in a zone where it is not listed of a use specifically in another zone or which is of the same general type and is similar to a use specifically listed in another zone.
3. Any new structure and addition to or replacement of existing structures are required to be inspected during the building process to assure compliance with all development regulations. Satisfactory completion of three field inspections is required to assure compliance. The first inspection will determine compliance with the approved site plan. The second inspection shall occur after completion of framing the structure. This inspection will determine compliance with approved floor plans and elevation drawings. The final inspection shall occur upon completion of the structure. This inspection will determine compliance with approved plans for drainage, utility service, off-street parking, any required street improvements, and

authorized land use.

The City shall provide the appropriate application and inspection forms, and may charge a fee for inspections. It is the responsibility of the property owner/applicant to notify the City when it is time for an inspection. The City will provide the required inspection in a timely manner. Any non-compliance revealed by an inspection will be promptly reported to the property owner/applicant with instructions on steps necessary to achieve compliance. If the property owner/applicant does not take steps, in a timely manner, to assure compliance, the City may issue a stop work order. Use and/or occupancy of the structure shall not be permitted until the City has issued an "Occupancy Permit" signifying satisfactory completion of the development regulations compliance process.

Section 1.040 to 1.090. Reserved.

ARTICLE II

Establishment of Zones

Section 2.000. Classification of Zones. For the purpose of this ordinance, the City is divided into zones designated as follows:

<u>Zone</u>		<u>Abbre</u>
Residential 1	R-1	
Residential 2		R-2
Controlled Development 1		CD-1
Controlled Development 2		CD-2
Controlled Development 3		CD-3
Controlled Development Residential 1		CD-R1
Controlled Development Residential 2		CD-R2
Old Town Commercial		C-1
General Commercial		C-2
Marine Commercial		C-3
Light Industrial		LI
Heavy Industrial		HI
Public Facilities and Parks		PF
Water		

Natural Resource and Open Space	NR	
Historic-Cultural Overlay		HC
Shoreland Overlay		SO
Architectural Review Overlay	AR	
Airport Overlay		AO

Section 2.010 Zoning Map.

- (1) The location and boundaries of the zones designated in Section 2.000 are hereby established as shown on the map entitled "Zoning Map of the City of Bandon, Oregon," dated with the effective date of this ordinance and signed by the Mayor and City Recorder, and hereafter referred to as the "zoning map".
- (2) The zoning map is hereby made a part of this ordinance.

Section 2.020 to 2.090. Reserved.

ARTICLE III

Residential Use Zones

Residential 1 Zone (R-1)

Section 3.000. Purpose. The purpose of the R-1 zone is to provide sufficient and desirable space in appropriate locations for residential uses and to protect these areas against congestion, nuisance and objectionable uses which reduce the quality and value of these areas for residential purposes.

Section 3.010. Permitted Uses. In the R-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Single-family dwelling
- 2) Two-family dwelling

- 3) Manufactured dwellings as defined in 1.020 (67)
- 4) Residential care home
- 5) Public utilities, including service structures

Section 3.020. Conditional Use. In the R-1 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Boarding or rooming house
- 2) Multiple-family dwelling
- 3) Church
- 4) Community club or building
- 5) Schools, including nursery or day care center
- 6) Park and recreation facility
- 7) Governmental structure or use
- 8) Parking to serve a location or use in a different zone where the parking area borders the different zone
- 9) Nursing, convalescent or retirement home
- 10) Medical, dental or related office
- 11) Medical, dental or related clinic
- 12) Hospital
- 13) Drugstores, provided that they are primarily for the sale of drugs
- 14) Residential facility
- 15) Planned Unit Development (P.U.D.) (Ord. 1377, 10-21-96)

Section 3.030. Limitations on Uses.

- 1) All homes in the R-1 Zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least six of the following design features:
 - a) garage or carport, constructed with exterior finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables
 - d) eaves with a minimum projection of 6 inches
 - e) tile or shake roof
 - f) dormers
 - g) off sets on the building face or roof of at least 12 inches
 - h) cupolas
 - i) covered porch or entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters

- n) horizontal lap siding
- 2) Vacation Rental Dwellings, Bed and Breakfasts and Bed and Breakfast Inns are specifically prohibited in the R-1 Zone.
- 3) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (*Amended by Ordinance No. 1418, Nov. 8, 1999*)

Section 3.040. Signs. In the R-1 zone only the following signs are permitted:

- 1) One name plate of home occupation sign, not more than two (2) square feet in area, for each dwelling. The sign shall not be illuminated.
- 2) One temporary sign, not more than 6 square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
- 3) One temporary sign per tract of land or subdivision advertising the sale of the tract or lots in the tract. The sign shall not exceed 42 square feet in area, shall not be illuminated and shall be set back at least 30 feet from any street right-of-way.
- 4) A sign for a conditional use in accordance with Article VII.
- 5) Offsite or off premise signs are prohibited

Section 3.050. Lot size. In the R-1 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single-family dwelling, lot area shall be 5,400 square feet; for a two-family dwelling, lot area shall be 9,000 square feet; for a three-family dwelling, lot area shall be 10,500 square feet; for additional units, lot area shall increase by 1,000 square feet per unit.
- 2) Lot width at the front building line shall be a minimum of 60 feet. Lots shall have a minimum of 25 feet of street frontage, this frontage shall be physically accessible.
- 3) Lot depth shall be at least 90 feet.

Section 3.060. Yards. Except as provided in Section 9.050, in the R-1 zone, yards shall be as follows:

- 1) The front yard shall be at least 20 feet.
- 2) A side yard shall be at least 5 feet, and the total of both side yards shall be at least 13 feet, with the exception of corner lots whose side yard abutting a street shall be at least 15 feet.

- 3) The rear yard shall be at least 10 feet, except that in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence and the side yard

setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in height.

Section 3.070. Height of Building. In the R-1 zone, the permitted building height limit shall be 28 feet and any height above this up to 35 feet shall require a conditional use permit. Standards for additional height shall be compatible with the scale of surrounding houses and buildings and the impacts on the space and light of surrounding homes.

Section 3.080. Lot coverage. In the R-1 zone, buildings shall not occupy more than 50 per cent of the lot area.

Section 3.090 to 3.190. Reserved.

Residential 2 Zone (R-2)

Section 3.200. Purpose. The purpose of the R-2 zone is to reserve and designate suitable areas to accommodate residential development including conventionally constructed single family homes, manufactured homes, mobile homes and multifamily homes.

Section 3.210. Permitted Uses. In the R-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Mobile and manufactured homes as defined in Section 1.020 (68), (67)
- 2) Single-family dwellings
- 3) Residential mobile and manufactured home parks that are in compliance with the State of Oregon Building Codes Agency Mobile or Manufactured Home Park facility requirements
- 4) Two-family dwellings
- 5) Multiple-family dwelling
- 6) Residential care home

- 7) Public utilities, including service structures

Section 3.220. Conditional Use. In the R-2 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Boarding or rooming house
- 2) Church
- 3) Community club or building
- 4) Schools, including nursery or day care centers
- 5) Park and recreation facility
- 6) Governmental structure or use
- 7) Parking to serve a location or use in a different zone where the parking area borders the different zone
- 8) Nursing, convalescent or retirement home
- 9) Medical, dental or related offices or clinics
- 10) Hospital
- 11) Drugstores, provided that they are primarily for the sale of drugs
- 12) Residential facility
- 13) Planned Unit Development (P.U.D.) (Ord. 1377, 10-21-96)

Section 3.230. Limitations on Uses.

- 1) All homes in the R-2 Zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least six of the following design features:
 - a) garage or carport, constructed with exterior finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables
 - d) eaves with a minimum projection of 6 inches
 - e) tile or shake roof
 - f) dormers
 - g) off sets on the building face or roof of at least 12 inches
 - h) cupolas
 - i) covered porch or entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters
 - n) horizontal lap siding
- 2) Vacation Rental Dwellings, Bed and Breakfasts and Bed and Breakfast Inns are specifically prohibited in the R-2 Zone.
- 3) Recreational vehicles, trailer houses, boats 18 feet in length

or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance No. 1418, Nov. 8, 1999.)

Section 3.240. Signs. In the R-2 zone only the following signs are permitted:

- 1) One name plate of home occupation sign, not more than two (2) square feet in area, for each dwelling. The sign shall not be illuminated.
- 2) One temporary sign, not more than 6 square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
- 3) One temporary sign per tract of land or subdivision advertising the sale of the tract or lots in the tract. The sign shall not exceed 42 square feet in area, shall not be illuminated and shall be set back at least 30 feet from any street right-of-way.
- 4) A sign for a conditional use in accordance with Article VII.
- 5) Off site or off premise signs are prohibited

Section 3.250. Lot size. In the R-2 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single-family dwelling, lot area shall be 5,400 square feet; for a two-family dwelling, lot area shall be 9,000 square feet; for a three-family dwelling, lot area shall be 10,500 square feet; for additional units, lot area shall increase by 1,000 square feet per unit.
- 2) Lot width at the front building line shall be a minimum of 60 feet. Lots shall have a minimum of 25 feet of street frontage, this frontage shall be physically accessible.
- 3) Lot depth shall be at least 90 feet.

Section 3.260. Yards. Except as provided in Section 9.050, in the R-2 zone, yards shall be as follows:

- 1) The front yard shall be at least 20 feet.
- 2) A side yard shall be at least 5 feet, and the total of both side yards shall be at least 13 feet, with the exception of corner lots whose side yard abutting a street shall be at least 15 feet.
- 3) The rear yard shall be a least 10 feet, except in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence and the side

yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in height.

Section 3.270. Height of Building. In the R-2 zone, the permitted building height limit shall be 28 feet and any height above this up to 35 feet shall require a conditional use permit. Standards for additional height shall be compatible with the scale of surrounding houses and buildings and the impacts on the space and light of surrounding homes.

Section 3.280. Lot coverage. In the R-2 zone, buildings shall not occupy more than 50 per cent of the lot area.

Section 3.290 to 3.390. Reserved.

Controlled Development 1 Zone (CD-1)

Section 3.400. Purpose. The purpose of the CD-1 zone is to recognize the scenic and unique qualities of Bandon's ocean front and nearby areas and to maintain these qualities as much as possible by carefully controlling the nature and scale of future development in this zone. It is intended that a mix of uses would be permitted, including residential, tourist commercial and recreational. Future development is to be controlled in order to enhance and protect the area's unique qualities.

Section 3.410. Permitted Uses. In the CD-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Single-family dwelling, or manufactured dwelling, as defined in Section 1.020 (67)
- 2) State Parks, including outright rehabilitation, replacement, minor betterment and improvements which do not result in increased visitors
- 3) Residential care home
- 4) Public utilities, including service structures

Section 3.420. Conditional Uses. In the CD-1 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Duplex
- 2) Planned Unit Development (P.U.D.)
- 3) Museums, tourist information centers, parks and recreational facilities
- 4) Gift, art, or handicraft store
- 5) Eating and drinking establishment
- 6) Motel, hotel
- 7) Bed and breakfast, bed and breakfast inn (Section 7.080 {10})
- 8) Vacation Rental Dwellings (see Section 7.080 {11})
- 9) Residential uses incidental to other conditional or permitted uses
- 10) Governmental structure or use
- 11) Church
- 12) Wildlife Rehabilitation Center [Planning Commission Addition 2-26-98]

Section 3.430. Limitations on Use.

- 1) Drive-up uses are prohibited
- 2) All new uses or structures or major exterior alterations of existing structures in the CD-1 zone shall comply with the following:
 - a) The developer shall be required to gain approval from the Planning Commission during a Plan Review in public session regarding the design and siting of new structure(s) and all other ordinance requirements. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 14.000).
 - b) Siting of structures should minimize negative impact on the ocean views of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built "in line" with other existing structures and not extend further out into those view-scapes.
 - c) Metal sided buildings are not permitted in the CD-1 Zone.
- 3) Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the Planning Commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate

precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.

The following identifies the reports which may be required:

- a) SOILS REPORT. This report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.
- b) GEOLOGY REPORT. This report shall include an adequate description as defined by the City Manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the State of Oregon.
- c) HYDROLOGY REPORT. This report shall include an adequate description, as defined by the City Manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.

The Planning Commission may waive any of these reports if it decides that they are irrelevant to the site.

- 4) No structures shall be located on identified foredunes. Breaching of foredunes shall only be allowed on a temporary basis in a dire emergency and shall be followed immediately by replenishment of sand, structural or binding material and vegetation, to the height of the surrounding existing dune. It shall be the responsibility of the developer or the party responsible to rebuild any breach or reestablish any vegetation that is removed, displaced or damaged on any bluff, foredune,

or in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the City Manager or designate shall require a bond in a sufficient amount to cover the costs of such rebuilding or reestablishment of vegetation.

- 5) Minor modifications to existing structures such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.
- 6) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance No. 1418, Nov. 8, 1999.)
- 7) All homes in the CD-1 Zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features:
 - a) garage constructed with finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables
 - d) eaves with a minimum projection of 6 inches
 - e) tile or shake roof
 - f) dormers
 - g) off sets on the building face or roof of at least 2 feet
 - h) cupolas
 - i) covered porch or recessed entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters
 - n) horizontal lap siding

Section 3.440. Signs. In the CD-1 zone only the following signs are permitted:

- 1) One name plate or home occupation sign including signs for Vacation Rentals and Bed and Breakfast and Bed and Breakfast Inns, not more than two (2) square feet in area, for each

- dwelling. The sign shall not be directly illuminated.
- 2) One temporary sign, not more than four (4) square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
 - 3) One temporary sign per tract of land or subdivision advertising the sale of lots in the tract. The sign shall not exceed sixteen (16) square feet in area or be illuminated. Signs in this category larger than four (4) square feet shall be set back at least 20 feet from any street right-of-way.
 - 4) A sign for a conditional use shall be in conformance with Section 7.080 (4) or by Planning Commission approval.
 - 5) Public signs installed by government agencies.
 - 6) All signs shall be of professional quality and shall be well maintained.
 - 7) Off site or off premise signs are prohibited.

Section 3.450. Lot Size. In the CD-1 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single family dwelling, a lot shall be a minimum of 5,400 square feet. For a duplex, a lot shall be a minimum of 9,000 square feet.
- 2) Lot width at the front building line shall be a minimum of 60 feet. Lots shall have a minimum of 25 feet of physically accessible street frontage.
- 3) Lot depth shall be at least 90 feet.

Section 3.460. Yards. Except as provided in Section 9.050, yards in the CD-1 zone shall be as follows:

- 1) The front yard shall be a minimum of 20 feet.
- 2) Each side yard shall be a minimum of 5 feet, and the total of both side yards shall be a minimum of 13 feet, except that for corner lots, a side yard abutting a street shall be at least 15 feet.
- 3) The rear yard shall be at least 10 feet, except that in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in height.
- 4) Where a side yard of a new commercial structure or Bed and Breakfast Inn abuts a residential use, that yard shall be a

minimum of 15 feet.

- 5) A rear yard abutting Beach Loop Drive shall be a minimum of 15 feet.

Section 3.470. Lot Coverage. In the CD-1 zone, buildings shall not occupy more than 50 per cent of the lot area.

Section 3.480. Height of Structures. In order to maximize the ocean view potential of lots in the CD-1 zone:

- 1) West of Beach Loop Drive the height of any structure including any extension or appendage is limited to 24 feet.
- 2) East of Beach Loop Drive the height of any structure including any extension or appendage is limited to 28 feet, except that any height above this up to 35 feet shall be considered a conditional use.
- 3) Increased height for conditional use or variance shall be allowed by the Planning Commission only upon finding that the increased height will not adversely impact adjoining property's ocean views to a greater degree than would the permitted height.

Section 3.490 to 3.590. Reserved.

Controlled Development 2 Zone (CD-2)

Section 3.600. Purpose. The purpose of the CD-2 zone is to protect and enhance the unique character, natural resources and habitat characteristics of the Bandon Jetty and its bluff area, to provide for the development of a coastal village atmosphere, and to exclude those uses which would be inconsistent with the area's character.

Section 3.610. Permitted Uses. In the CD-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Single-family dwelling, or manufactured dwellings as defined in Section 1.020 (67)
- 2) Residential care home
- 3) Public utilities, including service structures

Section 3.620. Conditional Uses. In the CD-2 zone, the

following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Duplex
- 2) Museums, interpretive centers, marine oriented parks, marine oriented outdoor recreation facilities.
- 3) Gift, art, specialty, or handicraft shop
- 4) Eating and drinking establishments
- 5) Bed and Breakfast, Bed and Breakfast Inn, (see Section 7.080 {10})
- 6) Vacation Rental Dwellings, (see Section 7.080 {11})
- 7) Planned Unit Development, including resorts, except mobile home, trailer or recreational vehicle
- 8) Residential facility
- 9) (Reserved)

Section 3.630. Limitations on Use.

- 1) Drive-up uses are prohibited
- 2) All new uses or structures or major exterior alterations of existing structures in the CD-2 zone shall comply with the following:
 - a) The developer shall be required to gain approval from the Planning Commission during a Plan Review in public session regarding the design and siting of the structure(s) and all other ordinance requirements. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 14.000).
 - b) The use or structure conforms to Sections 3.600 through 3.690.
 - c) The exterior of all structures will utilize natural wood material and be of a rustic appearance in accordance with the purpose of the zone (Section 3.600).
 - d) Metal sided buildings are prohibited.
 - e) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance No. 1418, Nov. 8, 1999.)
- 3) Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or

if any geologic hazard is suspected, the Planning Commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion.

The burden of proof is on the landowner to show that it is safe to build.

The following identifies the reports which may be required:

- a) SOILS REPORT. This report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.
- b) GEOLOGY REPORT. This report shall include an adequate description as defined by the City Manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the State of Oregon.
- c) HYDROLOGY REPORT. This report shall include an adequate description, as defined by the City Manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.

The Planning Commission may waive any of these reports if it decides that they are irrelevant to the site.

- 4) No structures shall be located on identified foredunes. Breaching of foredunes shall only be allowed on a temporary basis in a dire emergency and shall be followed immediately by

replenishment of sand, structural or binding material and vegetation, to the height of the surrounding existing dune. It shall be the responsibility of the developer or the party responsible to rebuild any breach or reestablish any vegetation that is removed, displaced or damaged on any bluff, foredune, or in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the City Manager or designate shall require a bond in a sufficient amount to cover the costs of such rebuilding or reestablishment of vegetation.

- 5) Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.
- 6) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance No. 1418, Nov. 8, 1999.)
- 7) All homes in the CD-2 Zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features:
 - a) garage or carport, constructed of finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables
 - d) eaves with a minimum projection of 6 inches
 - e) tile or shake roof
 - f) dormers
 - g) off sets on the building face or roof of at least 2 feet
 - h) cupolas
 - i) covered porch or entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters
 - n) horizontal lap siding

Section 3.640. Signs. In the CD-2 zone only the following

signs are permitted:

- 1) One name plate or home occupation sign including signs for Vacation Rentals and Bed and Breakfast and Bed and Breakfast Inns, not more than 2 square feet in area, for each dwelling. The sign shall not be directly illuminated.
- 2) One temporary sign, not more than four (4) square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
- 3) One temporary sign per tract of land or subdivision advertising the sale of lots in the tract. The sign shall not exceed sixteen (16) square feet in area or be illuminated. Signs in this category larger than four (4) square feet shall be set back at least 20 feet from any street right-of-way.
- 4) A sign for a conditional use shall be in conformance with Section 7.080 (4) or by Planning Commission approval.
- 5) Public signs installed by government agencies.
- 6) All signs shall be of professional quality and shall be well maintained.
- 7) Offsite or off premise signs are prohibited.

Section 3.650. Lot Size. In the CD-2 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single family dwelling, a lot shall be a minimum of 5,400 square feet. For a duplex, a lot shall be a minimum of 9,000 square feet.
- 2) Lot width at the front building line shall be 60 feet. Lots shall have a minimum of 25 feet of street frontage. This frontage shall be physically accessible.
- 3) Lot depth shall be 90 feet.

Section 3.660. Yards. Except as provided in Section 9.050, in the CD-2 zone, yards shall be as follows:

- 1) The front yard shall be at least 20 feet.
- 2) Each side yard shall be a minimum of 5 feet, and the total of both side yards shall be a minimum of 13 feet, except that for corner lots, a side yard abutting a street shall be at least 15 feet.
- 3) The rear yard shall be at least 10 feet, except that in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in

height.

- 4) Where a side yard of a new commercial structure or Bed and Breakfast Inn abuts a residential use, that yard shall be a minimum of 15 feet.

Section 3.670. Height of Structures. In the CD-2 zone, no building shall exceed a height of 28 feet, except that additional height above 28 feet but not exceeding 35 feet shall be considered a conditional use. Conditional use permits above 28 feet for any use shall be allowed only if the Planning Commission finds that the increased height does not adversely affect the ocean or river views of existing structures on abutting lots.

Section 3.680. Lot Coverage. In the CD-2 zone, buildings shall not occupy more than 50 per cent of the lot area.

Section 3.690 Reserved.

Controlled Development 3 Zone (CD-3)
(Ord. 1387: 8-18-97)

Section 3.700. Purpose. The purpose of the CD-3 zone is to provide appropriate development opportunities in the entryway to the South Jetty area while protecting and enhancing its unique natural resources. This zone will serve as a transitional area between the commercial uses of the Old Town/Waterfront area to the predominately residential South Jetty neighborhood.

Section 3.710. Permitted Uses. In the CD-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Single-family dwelling, or manufactured dwellings as defined in Section 1.020 (67)
- 2) Public Utilities, including service structures

Section 3.720. Conditional Uses. In the CD-3 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Duplex

- 2) Planned Unit Development (PUD), including multi-family dwellings; but excluding individual mobile homes, trailers, recreational vehicles or parks thereof
- 3) Gift, art, specialty, or handicraft shop
- 4) Eating and drinking establishments
- 5) Bed and Breakfast, Bed and Breakfast Inn, (see Section 7.080 {10})

Section 3.730. Limitations on Use.

- 1) Drive-up uses are prohibited
- 2) All new uses or structures or major exterior alterations of existing structures in the CD-3 zone shall comply with the following:
 - a) The developer shall be required to gain approval from the Planning Commission during a Plan Review in public session regarding the design and siting of the structure(s) and all other ordinance requirements. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 14.000).
 - b) The use or structure conforms to Sections 3.700 through 3.780.
 - c) The design of all structures, and materials selected for their exterior surfaces, will utilize scale, color and materials that will enhance and promulgate the small town/village idiom currently found in the adjacent CD-2 and C-3 zones.
 - d) Prefabricated or sheet metal sided buildings are prohibited.
 - e) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ord. 1418, Nov. 8, 1999.)
- 3) Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the Planning Commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommend appropriate

precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.

The following identifies the reports which may be required:

- a) SOILS REPORT. This report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.
- b) GEOLOGY REPORT. This report shall include an adequate description as defined by the City Manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the State of Oregon.
- c) HYDROLOGY REPORT. This report shall include an adequate description, as defined by the City Manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.

The Planning Commission may waive any of these reports if it decides that they are irrelevant to the site.

- 4) Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent

with all other ordinance provisions.

- 5) Development must acknowledge and accommodate the Port of Bandon's Riverwalk Master Plan.
- 6) All dwellings in the CD-3 Zone, including conventionally constructed and manufactured dwellings, shall utilize at least eight of the following design features:
 - a) garage or carport, constructed of finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables, gambrel, or hip roof
 - d) eaves with a minimum projection of 6 inches
 - e) tile, wood shake, or wood shingle roof
 - f) dormers
 - g) off sets on the building face or roof of at least 2 feet
 - h) cupolas
 - I) covered porch or entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters
 - n) horizontal lap, shingle, board and batten or board on board siding

Section 3.740. Signs. In the CD-3 zone only the following signs are permitted:

- 1) One name plate or home occupation sign including signs for Bed and Breakfast and Bed and Breakfast Inns, not more than 2 square feet in area, for each dwelling. The sign shall not be directly illuminated.
- 2) One temporary sign, not more than four (4) square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
- 3) One temporary sign per tract of land or subdivision advertising the sale of lots in the tract, or condominium units. The sign shall not exceed sixteen (16) square feet in area or be illuminated. Signs in this category larger than four (4) square feet shall be set back at least 20 feet from any street right-of-way.
- 4) A sign for a conditional use shall be in conformance with Section 7.080 (4) or by Planning Commission approval.
- 5) Public signs installed by government agencies.
- 6) All signs shall be of professional quality and shall be well maintained.

- 7) Offsite or off premise signs are prohibited.

Section 3.750. Lot Size. In the CD-3 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single family dwelling, a lot shall be a minimum of 5,400 square feet in area. For a duplex, a lot shall be a minimum of 9,000 square feet in area. Lot requirements for multi-family dwellings shall be such that a maximum density of 17 units per net acre is not exceeded.
- 2) Lot width at the front building line shall be a minimum of 60 feet. Lots shall have a minimum of 25 feet of physically accessible street frontage.
- 3) Minimum lot depth shall be 90 feet.

Section 3.760. Yards. Except as provided in Section 9.050, in the CD-3 zone, yards shall be as follows:

- 1) The front yard shall be at least 20 feet.
- 2) Each side yard shall be a minimum of 5 feet, and the total of both side yards shall be a minimum of 13 feet, except that for corner lots, a side yard abutting a street shall be at least 15 feet.
- 3) The rear yard shall be at least 10 feet, except that in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in height.
- 4) Where a side yard of a new commercial structure or Bed and Breakfast Inn abuts a residential use, that yard shall be a minimum of 15 feet.

Section 3.770. Height of Structures. In the CD-3 zone, no building shall exceed a height of 28 feet, except that additional height above 28 feet but not exceeding 35 feet shall be considered a conditional use. Conditional use permits above 28 feet for any use shall be allowed only if the Planning Commission finds that the increased height does not adversely affect the ocean or river views of existing structures on abutting lots.

Section 3.780. Lot Coverage. In the CD-3 zone, buildings shall not occupy more than 50 per cent of the lot area.

Section 3.790 to 3.799. Reserved.

Controlled Development Residential 1 Zone (CD-R1)

Section 3.800. Purpose. The purpose of the CD-R1 zone is to recognize the scenic and unique qualities of the view areas and nearby properties overlooking the Jetty area, the Coquille River and the Old Town, and to maintain these qualities as much as possible by carefully controlling the nature and scale of development in this zone. The vistas and residential character of this area shall be protected by carefully controlling development in the zone.

Section 3.810. Permitted Uses. In the CD-R1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Single family dwelling, or manufactured dwellings as defined in Section 1.020 (67)
- 2) Residential care home
- 3) Public utilities, including service structures

Section 3.820. Conditional Uses. In the CD-R1 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Duplex
- 2) Planned Unit Development (P.U.D.)
- 3) Governmental structure or use
- 4) Health care service facilities, including office
- 5) Nursing home
- 6) Residential facility

Section 3.830. Limitations on Use.

- 1) All new uses or structures or exterior alterations of existing structures in the CD-R1 zone shall comply with the following:
 - a) The developer shall be required to gain approval from the Planning Commission during a Plan Review in public session regarding the siting and design of the structure and all other ordinance requirements. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 14.000).
 - b) Siting of structures should minimize negative impacts on the views of the ocean or river of existing structures on

abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built "in line" with other existing structures and not extend further out into those views.

- 2) Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the Planning Commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.

The following identifies the reports which may be required:

- a) SOILS REPORT. This report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.
- b) GEOLOGY REPORT. This report shall include an adequate description as defined by the City Manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the State of Oregon.
- c) HYDROLOGY REPORT. This report shall include an adequate description, as defined by the City Manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently

registered in the State of Oregon.

The Planning Commission may waive any of these reports if it decides that they are irrelevant to the site.

- 3) It shall be the responsibility of the developer to reestablish any vegetation that is removed, displaced or damaged on or near any bluff area in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the City Manager or designate shall require a bond in a sufficient amount to cover the costs of such reestablishment of vegetation.
- 4) Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.
- 5) Metal sided buildings are prohibited in the CD-R1 Zone.
- 6) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance No. 1418, Nov. 8, 1999.)
- 7) All homes in the CD-R1 Zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features:
 - a) garage or carport, constructed with exterior finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables
 - d) eaves with a minimum projection of 6 inches
 - e) tile or shake roof
 - f) dormers
 - g) off sets on the building face or roof of at least 2 feet
 - h) cupolas
 - i) covered porch or entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters

n) horizontal lap siding

Section 3.840. Signs. In the CD-R1 zone only the following signs are permitted:

- 1) One name plate or home occupation sign, not more than 2 square feet in area, for each dwelling. The sign shall not be directly illuminated.
- 2) One temporary sign, not more than four (4) square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
- 3) One temporary sign per tract of land or subdivision advertising the sale of lots in the tract. The sign shall not exceed sixteen (16) square feet in area or be illuminated. Signs in this category larger than four (4) square feet shall be set back at least 20 feet from any street right-of-way.
- 4) A sign for a conditional use shall be in conformance with Section 7.080 (4) or by Planning Commission approval.
- 5) Public signs installed by government agencies.
- 6) All signs shall be of professional quality and shall be well maintained.
- 7) No offsite or off premise signs are permitted.

Section 3.850. Lot Size. In the CD-R1 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single family dwelling, a lot shall be a minimum of 5,400 square feet. For a duplex, a lot shall be a minimum of 9,000 square feet.
- 2) Lot width at the front building line shall be a minimum of 60 feet. Lots shall have a minimum of 25 feet of street frontage. This frontage shall be physically accessible.
- 3) Lot depth shall be at least 90 feet.

Section 3.860. Yards. Except as provided in Section 9.050, yards in the CD-R1 zone shall be as follows:

- 1) The front yard shall be a minimum of 20 feet.
- 2) Each side yard shall be a minimum of 5 feet, and the total of both side yards shall be a minimum of 13 feet, except that for corner lots, a side yard abutting a street shall be at least 15 feet.
- 3) The rear yard shall be at least 10 feet, except that in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence

and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in height.

- 4) Where a side yard of a new commercial structure or Bed and Breakfast Inn abuts a residential use, that yard shall be a minimum of 15 feet.

Section 3.870. Lot Coverage. In the CD-R1 zone buildings shall not occupy more than 50 per cent of the lot area.

Section 3.880. Height of Structures. In order to maximize the ocean and river view potential of lots in the CD-R1 zone the developer shall comply with the following:

- 1) Structures or any extension or appendage thereto shall not extend to more than 24 feet above ground level except for Lots 5 thru 8 Block 5, and Lots 5 thru 8 Block 4, all in the Averill Addition, located on Map 28-15-25 AD, wherein the height limit shall be 28 feet.
- 2) Variances for increased height shall be allowed by the Planning Commission only upon finding that the increased height will not adversely impact adjoining property's ocean or river views to a greater degree than would the permitted height.

Section 3.890 to 3.990. Reserved.

Controlled Development Residential 2 Zone (CD-R2)

Section 3.1000. Purpose. The purpose of the CD-R2 zone is to recognize the scenic and unique qualities of the view areas overlooking the ocean and the Coquille River and the adjacent properties, and to maintain these qualities as much as possible by carefully controlling the nature and scale of future development in this zone. The vistas and residential character of this area shall be protected by carefully controlling development in the zone.

Section 3.1010. Permitted Uses. In the CD-R2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are

met:

- 1) Single family dwelling, or manufactured dwellings as defined in Section 1.020 (67)
- 2) Residential care home
- 3) Public utilities, including service structures

Section 3.1020. Conditional Uses. In the CD-R2 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Duplex
- 2) Planned Unit Development (P.U.D.)
- 3) Governmental structure or use

Section 3.1030. Limitations on Use.

- 1) All new uses or structures or exterior alterations of existing structures in the CD-R2 zone shall comply with the following:
 - a) The developer shall be required to gain approval from the Planning Commission during a Plan Review in public session regarding the siting and design of the structure and all other ordinance requirements. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 14.000).
 - b) Siting of structures should minimize negative impacts on the views of the ocean or river of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built "in line" with other existing structures and not extend further out into those viewscapes.
- 2) Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the Planning Commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommend appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.

The following identifies the reports which may be required:

 - a) SOILS REPORT. This report shall include data regarding the nature, distribution, and strength of existing soils,

conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.

- b) GEOLOGY REPORT. This report shall include an adequate description as defined by the City Manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the State of Oregon.
- c) HYDROLOGY REPORT. This report shall include an adequate description, as defined by the City Manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the State of Oregon.

The Planning Commission may waive any of these reports if it decides that they are irrelevant to the site.

- 3) It shall be the responsibility of the developer to reestablish any vegetation that is removed, displaced or damaged on or near any bluff area in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the City Manager or designate shall require a bond in a sufficient amount to cover the costs of such reestablishment of vegetation.
- 4) Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.

- 5) Metal sided buildings are prohibited in the CD-R2 Zone.
- 6) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance 1418, Nov. 8, 1999.)
- 7) All homes in the CD-R2 Zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features:
 - a) garage or carport, constructed with finish materials matching the residence
 - b) roof with a pitch at or greater than 3/12
 - c) gables
 - d) eaves with a minimum projection of 6 inches
 - e) tile or shake roof
 - f) dormers
 - g) off sets on the building face or roof of at least 2 feet
 - h) cupolas
 - i) covered porch or entry area
 - j) recessed entry area
 - k) pillars or posts
 - l) bay windows
 - m) window shutters
 - n) horizontal lap siding

Section 3.1040. Signs. In the CD-R2 zone only the following signs are permitted:

- 1) One name plate or home occupation sign, not more than 2 square feet in area, for each dwelling. The sign shall not be directly illuminated.
- 2) One temporary sign, not more than four (4) square feet in area, advertising the sale, lease or rental of the property. The sign shall not be illuminated.
- 3) One temporary sign per tract of land or subdivision advertising the sale of lots in the tract. The sign shall not exceed sixteen (16) square feet in area or be illuminated. Signs in this category larger than four (4) square feet shall be set back at least 20 feet from any street right-of-way.
- 4) A sign for a conditional use shall be in conformance with Section 7.080 (4) or by Planning Commission approval.
- 5) Public signs installed by government agencies.
- 6) All signs shall be of professional quality and shall be well

maintained.

- 7) No offsite or off premise signs are permitted.

Section 3.1050. Lot Size. In the CD-R2 zone, except as provided in Section 9.040, minimum lot size shall be as follows:

- 1) For a single family dwelling, a lot shall be a minimum of 5,400 square feet. For a duplex, a lot shall be a minimum of 9,000 square feet.
- 2) Lot width at the front building line shall be a minimum of 60 feet. Lots shall have a minimum of 25 feet of street frontage. This frontage shall be physically accessible.
- 3) Lot depth shall be at least 90 feet.

Section 3.1060. Yards. Except as provided in Section 9.050, yards in the CD-R2 zone shall be as follows:

- 1) The front yard shall be a minimum of 20 feet.
- 2) Each side yard shall be a minimum of 5 feet, and the total of both side yards shall be a minimum of 13 feet, except that for corner lots, a side yard abutting a street shall be at least 15 feet.
- 3) The rear yard shall be at least 10 feet, except that in such a required rear yard storage structures, garages and other nonhabitable structures may be built within 5 feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed 16 feet in height.
- 4) Where a side yard of a new commercial structure or Bed and Breakfast Inn abuts a residential use, that yard shall be a minimum of 15 feet.

Section 3.1070. Lot Coverage. In the CD-R2 zone buildings shall not occupy more than 50 per cent of the lot area.

Section 3.1080. Height of Structures. In order to maximize the ocean and river view potential of lots in the CD-R2 zone the developer shall comply with the following:

- 1) Structures or any extension or appendage thereto shall not extend to more than 24 feet above ground level.
- 2) Variances for increased height shall be allowed by the Planning Commission only upon finding that the increased height will not adversely impact adjoining property's ocean or river views to

a greater degree than would the permitted height.

Section 3.1090 to 3.1190. Reserved.

ARTICLE IV

Commercial Use Zones

Old Town Commercial Zone (C-1)

Section 4.000. Purpose. The purpose of the C-1 zone is to provide space and protection for businesses and to promote a mix of businesses that will serve residents and visitors to the area intended to exclude those uses which would detract from its appeal as an aesthetically pleasing commercial district for residents and visitors.

Section 4.010. Permitted Uses. In the C-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Museums, tourist information centers, and public parks
- 2) Gift, art and handicraft store
- 3) Eating and drinking establishments
- 4) Publicly owned facilities and services, and public utilities
- 5) Gourmet or specialty foods or wine shop
- 6) Clothing store
- 7) Business, governmental or professional offices
- 8) Barber shop or beauty shop
- 9) Apartments, provided that they are an accessory use incidental to a listed permitted or conditional use in the building
- 10) Hardware store, florist shop, or specialty store

Section 4.020. Conditional Uses. In the C-1 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Self-service laundry
- 2) Recreational facilities, including concert halls, theaters and convention centers
- 3) Hotel, motel
- 4) Bed and breakfast or bed and breakfast inn

Section 4.030. Limitations on Uses. In the C-1 zone, the following conditions and limitations shall apply:

- 1) Development activity in the Old Town area is subject to the Architectural Review standards as provided in Section 6.400 through 6.450.
- 2) The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.
- 3) The use shall not be objectionable because of odor, dust, fumes, smoke, noise, glare, or the effects of vehicular traffic.
- 4) Drive-up uses are prohibited.

Section 4.040. Signs. In the C-1 zone, all signs shall conform to the Architectural Review Board's requirements [See Section 6.440] unless the site is not within the AR Overlay Zone, in which case they shall comply with Section 4.240 (C-2, General Commercial) or Sections 4.440 - 4.450 (C-3, Marine Commercial).

Section 4.050. Lot Size. As necessary to comply with Section 4.080.

Section 4.060. Yards. Except as provided in Section 9.050, in the C-1 zone, minimum yard size shall be as follows:

- 1) In the event of a common property line, a side yard abutting a residential zone shall be at least 15 feet plus one foot for each two feet by which the building exceeds 28 feet.
- 2) The rear yard shall meet the same requirements as a side yard.

Section 4.070. Height of Structures. In the C-1 zone the permitted height limit shall be 28 feet, except that heights above 28 feet but not exceeding 35 feet shall require a conditional use permit.

Section 4.080. Lot Coverage. In the C-1 zone, buildings shall not occupy more than 75 per cent of the developed lot or lots.

Section 4.090. Outside Sales Area. In the C-1 zone, any outside sales area shall be drained and surfaced with crushed rock or paved.

Section 4.100 to 4.190. Reserved.

General Commercial Zone (C-2)

Section 4.200. Purpose. The purpose of the C-2 zone is to provide sufficient and appropriate space for the general shopping, business and commercial needs of the city and surrounding areas, and to encourage the development of such space in a pleasant and desirable manner. These areas are intended to encourage the continuing quality of business retail services and to protect these uses from uses which would break up such continuity.

Section 4.210. Permitted Uses. In the C-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store
- 2) Business, governmental or professional office, including real estate
- 3) Personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service), and dry cleaning shop
- 4) Manufacturing, processing, repairing or storage auxiliary to or incidental to a commercial permitted use, but not occupying more than 50 per cent of the floor space of the establishment
- 5) Mortuary or funeral home
- 6) Eating and drinking establishments
- 7) Specialty or art shop or store
- 8) Grocery or food store
- 9) Automobile repair and sales and service
- 10) Sales, service or repair of machinery, trailers, mobile home, farm equipment, marine equipment
- 11) Building materials sales or services
- 12) Hotel or motel
- 13) Plumbing, electrical, paint or carpentry storage, sales or contracting
- 14) Indoor recreational establishments
- 15) Medical, dental or related office
- 16) Medical, dental or related clinic
- 17) Public utilities, including service structures

Section 4.220. Conditional Uses. In the C-2 zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Drive-up uses, in accordance with Section 7.080 (9)
- 2) Museums, tourist information centers, parks and recreational

facilities

- 3) Food or dairy products processing
- 4) Single family, two family, or multiple housing, including mobile or manufactured home
- 5) Recreational vehicle park, overnight trailer parking
- 6) Public utility or services building
- 7) Residential care home or facility
- 8) Governmental buildings or uses
- 9) Churches
- 10) Any fuel dispensing or fuel storage facilities

Section 4.230. Limitations on Uses. In the C-2 zone the following conditions and limitations shall apply:

- 1) The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.
- 2) The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- 3) Limitations on use may be waived as a conditional use, subject to the provisions of Article VII.

Section 4.240. Signs. In the C-2 zone a sign shall not be permitted unless it meets the following requirements:

- 1) Offsite or off premise signs are prohibited, except two existing billboards located on Hwy 101, one near the intersection of Hwy 101 and Hwy 42S and the other near the intersection of Hwy 101 and 15th Street. Other exceptions include State or City placed or sponsored signs.
- 2) A sign shall be set back at least 10 feet from an adjoining residentially zoned lot.
- 3) Moving or intermittent flashing signs are prohibited.
- 4) Reader boards and electronic message display signs are prohibited.
- 5) The total area of all exterior signs on a property shall not exceed one square foot for each lineal foot of lot frontage on the street. On a corner lot only the property line along one street shall qualify as frontage.
- 6) A sign shall be limited to a height of 35 feet from street level.
- 7) Signs within the AR Overlay Zone shall comply with Section 6.440 through 6.450.

Section 4.250. Lot Size. No requirements.

Section 4.260. Yards. Except as provided in Section 9.050,

in the C-2 zone minimum yards shall be as follows:

- 1) In the event of a common property line, a side yard abutting a residential zone shall be at least 15 feet plus 1 foot for each 2 feet by which the height of the building exceeds 28 feet
- 2) The rear yard shall meet the same requirements as a side yard.

Section 4.270. Height of Building. In the C-2 zone no building shall exceed a height of 45 feet.

Section 4.280. Lot Coverage. In the C-2 zone buildings shall not occupy more than 75 per cent of the developed lot or lots.

Section 4.290. Outside Sales Area. In the C-2 zone any outside sales area shall be drained and paved or surfaced with crushed rock.

Section 4.300 to 4.390. Reserved.

Marine Commercial Zone (C-3)

Section 4.400. Purpose. The purpose of the C-3 zone is to provide areas suitable for uses which depend upon or are benefitted by a waterfront location, and to retain adequate areas for these uses. (Ord. 1378, 2-3-97)

Section 4.410. Permitted Uses. In the C-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Boat basins
- 2) Piers, docks and bulkheads
- 3) Seafood processing, storage and sales
- 4) Marinas and boat services
- 5) Boat storage, manufacturing, maintenance, repair and moorage
- 6) Fishing supply sales, manufacturing and storage
- 7) Dredging, filling and channel maintenance
- 8) Storage of aggregate
- 9) Governmental services and offices which relate to marine activities
- 10) Aquaculture and accessory facilities
- 11) Public utilities, including service structures

Section 4.420. Conditional Use. In the C-3 zone the following uses and their accessory uses may be allowed when in accordance with

Article VII and when it is found that the proposed use would be benefitted by a waterfront location:

- 1) Eating and drinking establishments
- 2) Motels, hotels
- 3) Bed and breakfasts, bed and breakfast inns
- 4) Gift, art, craft, novelty or specialty shops, including the manufacture of such products
- 5) Governmental building or use
- 6) Public utility or service building
- 7) Park or recreation facility
- 8) Business or Professional Office (Ord. 1378, 2-3-97)
- 9) Single-Family Dwellings and other dwelling units intended for single-family occupancy, provided they are in a non-ESWD (especially water-dependent) area (Ord. 1395, 2-17-98)
- 10) Vacation Rental Dwelling (Ord. 1395, 2-17-98)

Section 4.430. Limitations on Uses. In the C-3 zone, the following conditions and limitations shall apply:

- 1) The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.
- 2) The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- 3) Limitations on use may be waived as a conditional use, subject to the provisions of Article VII.
- 4) Drive-up uses are prohibited.
- 5) The Planning Commission may establish a maximum percentage of a land parcel or a building devoted to one or more conditional uses to ensure that the purpose of this zone is achieved (Ord. 1378, 2-3-97).

Section 4.440. Signs. In the C-3 zone a sign shall not be permitted unless it meets the following requirements:

- 1) Offsite or off premise signs are prohibited.
- 2) A sign shall be set back at least 10 feet from an adjoining residentially zoned lot.
- 3) Moving or intermittent flashing signs are prohibited.
- 4) Reader boards and electronic message display signs are prohibited.
- 5) The total area of all exterior signs on a property shall not exceed one square foot for each lineal foot of lot frontage on the street. On a corner lot only the property line along one street shall qualify as frontage.
- 6) A sign shall be limited to a height of 35 feet from street level.

- 7) Signs within the AR Overlay Zone shall comply with Sections 6.440 through 6.450.

Section 4.450. Lot Size. No requirements.

Section 4.460. Yards. Except as provided in Section 9.050, in the C-3 zone minimum yards shall be as follows:

- 1) In the event of a common property line, a side yard abutting a residential zone shall be at least 15 feet plus 1 foot for each 2 feet by which the height of the building exceeds 28 feet.
- 2) The rear yard shall meet the same requirements as a side yard.

Section 4.470. Height of Building. In the C-3 zone no building shall exceed a height of 45 feet.

Section 4.480. Lot Coverage. In the C-3 zone buildings shall not occupy more than 75 per cent of the developed lot or lots.

Section 4.490. Outside Sales Area. In the C-3 zone any outside sales area shall be drained and paved or surfaced with crushed rock.

Section 4.500 to 4.590. Reserved.

Light Industrial Zone (LI)

Section 4.600. Purpose. The purpose of the LI zone is to provide space for industrial uses with little or slight nuisance effect to adjacent land uses.

Section 4.610. Permitted Uses. In the LI zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Manufacturing, processing and fabricating which is conducted solely in enclosed buildings which will not cause or result in:
 - a) Dissemination of noise, vibration, odor, dust, smoke, gas or fumes beyond the boundaries of the building
 - b) Hazard of fire or explosion, or other physical hazard
 - c) Radiation or interference with radio or television reception in adjacent areas
 - d) Excessive traffic either in number or size of vehicles through any adjacent residential zone

- 2) Dairy product or cranberry processing or storage
- 3) Warehousing
- 4) Public utilities, including service structures

Section 4.620. Conditional Uses. In the LI zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Single or two family dwelling, including mobile or manufactured homes
- 2) Public utility or service building
- 3) Government building or use
- 4) Other manufacturing or processing activities
- 5) Retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store
- 6) Business or professional office, including real estate
- 7) Personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service) or dry cleaning shop
- 8) Mortuary or funeral home
- 9) Eating and drinking establishment
- 10) Drive-up uses, in accordance with Section 7.080 (9)
- 11) Specialty or art shop or store
- 12) Grocery store
- 13) Automobile services, repair and sale
- 14) Sales, service or repair of machinery, trailers, mobile and manufactured homes, farm and marine equipment
- 15) Building materials sales and services
- 16) Hotels and motels
- 17) Plumbing, electrical, painting or carpentry storage, sales or contracting
- 18) Indoor recreational establishment

Section 4.630. Limitations on Uses.

- 1) All new uses or structures or exterior alterations of existing structures in the LI zone shall comply with the following:
 - a) The developer shall be required to gain approval from the Planning Commission during a Land Use Review in public session regarding all ordinance requirements.
 - b) Comprehensive Plan.
- 2) The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.

Section 4.640. Signs. In the LI zone a sign shall not be permitted unless it meets the following requirements:

- 1) Offsite or off premise signs are prohibited.
- 2) A sign shall be set back at least 10 feet from an adjoining residentially zoned lot.
- 3) Moving or intermittent flashing signs are prohibited.
- 4) Reader boards and electronic message display signs are prohibited .
- 5) The total area of all exterior signs on a property shall not exceed one square foot for each lineal foot of lot frontage on the street. On a corner lot only the property line along one street shall qualify as frontage.
- 6) A sign shall be limited to a height of 35 feet from street level.
- 7) Signs within the AR Overlay Zone shall comply with Sections 6.440 through 6.450.

Section 4.650. Lot Size. No requirements.

Section 4.660. Yards. In a LI zone a side or rear yard abutting a residential zone shall be at least 20 feet.

Section 4.670. Height of Building. In the LI zone no structure within 150 feet of a residential zone shall exceed a height of 45 feet¹.

Section 4.680. Lot Coverage. In the LI zone buildings shall not occupy more than 75 per cent of the developed lot or lots.

Section 4.690. Outside Sales Area. In the LI zone any outside sales area shall be drained and paved or surfaced with crushed rock.

Section 4.700 to 4.790. Reserved.

Heavy Industrial Zone (HI)

Section 4.800. Purpose. The purpose of the HI zone is to provide space for industry to insure the future well-being of the

¹ EDITOR'S NOTE: Previous edition of Ord. 1336 contained a misprint. Ordinance 1313 established a maximum height of 45 feet.

City.

Section 4.810. Permitted Uses. In the HI zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Public utilities, including service structures

Section 4.820. Conditional Uses. In the HI zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Manufacturing, repairing, compounding, fabrication, processing, packing and storage
- 2) Governmental building or use
- 3) Sales of products manufactured on site

Section 4.830. Limitations on Uses.

- 1) The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.

Section 4.840. Signs. In the HI zone a sign shall not be permitted unless it meets the following requirements:

- 1) Offsite or off premise signs are prohibited.
- 2) A sign shall be set back at least 10 feet from an adjoining residentially zoned lot.
- 3) Moving or intermittent flashing signs are prohibited.
- 4) Reader boards and electronic message display signs are prohibited.
- 5) The total area of all exterior signs on a property shall not exceed one square foot for each lineal foot of lot frontage on the street. On a corner lot only the property line along one street shall qualify as frontage.
- 6) A sign shall be limited to a height of 35 feet from street level.

Section 4.850. Lot Size. No requirements.

Section 4.860. Yards. In the HI zone a side or rear yard abutting a residential zone shall be at least 20 feet.

Section 4.870. Height of Building. In the HI zone no structure within 150 feet of a residential zone shall exceed a height of 45 feet.

Section 4.880. Lot Coverage. In the HI zone buildings shall not occupy more than 75 per cent of the developed lot or lots.

Section 4.890. Outside Sales Area. In the HI zone any outside sales area shall be drained and paved or surfaced with crushed rock.

Section 4.900 to 4.990. Reserved.

ARTICLE V

Additional Use Zones

Public Facilities and Parks Zone (PF)

Section 5.000. Purpose. The purpose of the PF zone is to identify and reserve publicly owned areas for the development of needed public facilities and services.

Section 5.010. Permitted Uses. No land uses are permitted outright in the PF zone.

Section 5.020. Conditional Uses. In the PF zone, the following uses and their accessory uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Schools, including nursery or day care centers
- 2) Parks or recreational facilities
- 3) Public utility or service buildings

- 4) Public parking
- 5) Government structures, offices or uses
- 6) Community center
- 7) Cemeteries
- 8) Other uses conducted for public purposes

Section 5.030. PF Zone Conditional Use Permit Fee. A public agency applying for a conditional use permit in the Public Facilities and Parks Zone is not subject to the conditional use permit fee.

Section 5.040 to 5.090. Reserved.

Water Zone (W)

Section 5.100. Purpose. The purpose of the Water zone is to identify estuarine areas of the City and to provide for uses which are suitable and necessary for such areas, consistent with the Bandon Comprehensive Plan.

The Water zone is composed of estuarine management units that have been assigned one of three designations according to their biological importance to the estuary. These management unit designations correspond to the estuarine management unit designations in the Bandon Comprehensive Plan.

The three management unit designations are Natural (N), Conservation (C) and Development (D). Uses and activities therein must conform to the overall purpose of the management units where they are proposed:

- 1) In Natural (N) areas, to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research and educational needs;
- 2) In Conservation (C) areas, to manage these areas for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration; and
- 3) In Development (D) areas, to provide for navigation and other identified needs for public, commercial, industrial water-dependent uses, consistent with the level of development or alteration allowed by that management unit.

Section 5.110. Natural Management Units. In the Coquille River Estuary, areas shall be designated as Natural Management Units to assure the protection of significant fish and wildlife habitats, or continued biological productivity within the estuary, and of scientific, research, and educational needs. These shall be managed to preserve the natural resources in recognition of dynamic, natural, geological and evolutionary processes. Such areas shall include, at a minimum, all major tracts of salt marsh, tide flats, and seagrass and algae beds.

Section 5.120. Permitted Uses in Natural Management Units.

In the N Management Units, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other ordinance requirements are met:

- 1) Undeveloped low-intensity, water-dependent recreation;
- 2) Research and educational observations;
- 3) Navigation aids, such as beacons and buoys;
- 4) Protection of habitat, nutrient, fish, wildlife and aesthetic resources;
- 5) Passive restoration measures;
- 6) Dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures;
- 7) Riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values;
- 8) Public utilities, including service structures; and
- 9) Bridge crossings

Section 5.130. Conditional Uses in Natural Management Units.

A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

Where consistent with the resource capabilities of the area and the purposes of this Management Unit the following uses may be allowed as Conditional Uses as per Article VII:

- 1) Aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks;
- 2) Communication facilities;
- 3) Active restoration of fish and wildlife habitat or water quality and estuarine enhancement;
- 4) Boat ramps for public use where no dredging or fill for navigational access is needed; and,
- 5) Pipelines, cables and utility crossing, including incidental dredging necessary for their installation;
- 6) Installation of tidegates in existing functional dikes;
- 7) Temporary alterations;
- 8) Bridge crossing support structures and dredging necessary for their installation.

Section 5.140. Conservation Management Units. In the Coquille River estuary, areas shall be designated as Conservation Management Units for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration. These areas shall be managed to conserve the natural resources and benefits. These shall include areas needed for maintenance and enhancement of biological productivity, recreational and aesthetic uses, and aquaculture. They shall include tracts of significant habitat smaller or of less biological importance than those in the natural Management Units, and recreational or commercial oyster and clam beds not included in the Natural Management Units. Areas that are partially altered and adjacent to existing development of moderate intensity which do not possess the resource characteristics of natural or development units shall also be included in this classification.

Section 5.150. Permitted Uses in Conservation Management

Units. Permitted uses in Conservation Management Units shall be all uses listed in Natural Management Units above except temporary alterations.

Section 5.160. Conditional Uses in Conservation Management Units. Where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed as Conditional Uses, per Article VII, and a use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity, and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biological productivity, recreational and aesthetic values and aquaculture.

The following are Conditional Uses in Conservation Management Units:

- 1) High-intensity water-dependent recreation, including boat ramps, marinas and new dredging for boat ramps and marinas;
- 2) Minor navigational improvements;
- 3) Mining and mineral extraction, including dredging necessary for mineral extraction;
- 4) Other water-dependent uses requiring occupation of water surface area by means other than dredge or fill;
- 5) Aquaculture requiring dredge or fill or other alteration of the estuary;
- 6) Active restoration for purposes other than those listed in (4) above;
- 7) Temporary alterations.

Section 5.170. Development Management Units. In the Coquille River estuary, areas shall be designated as Development Management Units to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development of alteration allowed by the overall Oregon Estuary Classification. Such areas shall include deep-water areas adjacent or in proximity to the shoreline, navigation channels, sub-tidal areas for in-water disposal of dredged material and areas of minimal biological significance needed for uses requiring alteration of the estuary not included in Natural or Conservation Management Units.

Section 5.180. Permitted Uses in Development Management Units. Permitted uses in areas managed for water-dependent

activities shall be navigation and water-dependent commercial and industrial uses.

As appropriate the following uses shall also be permissible in Development Management Units:

- 1) Dredge or fill, as allowed in Conservation or Natural Management Units;
- 2) Navigation and water-dependent commercial enterprises and activities;
- 3) Water transport channels where dredging may be necessary;
- 4) Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units;
- 5) Water storage areas where needed for products used in or resulting from industry, commerce, and recreation;
- 6) Marinas.

Section 5.190. Conditional Uses in Development Management Units. Where consistent with the purposes of this management unit, Article VII, and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and nondependent, nonrelated uses not requiring dredge or fill; mining and mineral extraction; and activities identified in Natural or Conservation Management Units shall also be appropriate.

In designating areas for these uses, the City shall consider the potential for using upland sited to reduce or limit the commitment of the estuarine surface area for surface uses.

Section 5.200. Estuarine Fill and Removal. Dredge, fill or other reduction or degradation of estuarine values shall be permitted only if such activities are allowed in the respective Management Unit and:

- 1) If required for navigation or other water-dependent uses that require an estuarine location or if specifically allowed by the applicable management unit requirements of this goal; and,
- 2) If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and,
- 3) If no feasible alternative upland locations exist; and,
- 4) If adverse impacts are minimized.

This requirement shall be implemented by the preparation of

findings by the City documenting that such proposed actions are consistent with the Comprehensive Plan and with the criteria listed above. This requirement recognizes that Goal #16 limits dredge, fill and other estuarine degradation in order to protect the integrity of the estuary.

Section 5.210. Agency Notification. For Conditional Uses within the Water Zone, the following agencies shall be notified by mail according to the Notice provisions as stated in Section 14.030:

- 1) State Agencies
 - a) Division of State Lands
 - b) Department of Fish and Wildlife
 - c) Department of Environmental Quality
- 2) Federal Agencies
 - a) Army Corps of Engineers
 - b) National Marine Fisheries Service
 - c) U.S. Fish and Wildlife Service
- 3) Other Notification (where applicable)
 - a) State Water Resource Department (uses including appropriation for water only)
 - b) State Department of Geology and Mineral Industries (mining and mineral extraction only)
 - c) State Department of Energy (generating and other energy facilities only)
 - d) Department of Economic Development (docks, industrial and port facilities and marinas, only).

Section 5.220 to 5.290. Reserved.

Natural Resource and Open Space Zone (NR)

Section 5.300. Purpose. The purpose of the NR zone is to protect important natural resources, such as open space areas, significant fish and wildlife habitats, outstanding scenic views and sites, ecological and scientific natural areas, wetlands and watersheds, historical areas and structures, and areas necessary to maintain or protect the quality of air, land and water resources from inappropriate or incompatible development. In an NR zone uses shall be limited to those uses that are consistent with protection of natural values.

Section 5.310. Permitted Uses. In the NR zone the following uses are permitted outright:

- 1) Wildlife and marine life sanctuaries
- 2) Public parks
- 3) Low-intensity recreational uses which do not include the use of structures
- 4) Harvesting wild crops.

Section 5.320. Conditional Uses. In the NR zone, the following uses may be allowed in accordance with Article VII and the provisions of this ordinance:

- 1) Public utilities and facilities, except that all utilities shall be underground
- 2) Structures for recreational activity or public use, except that such structures shall be built and located so as to minimize their impact on visual and resource values of the area
- 3) Historical structures and rehabilitation of such structures
- 4) Aquaculture and accessory facilities
- 5) Propagation and selective harvesting of forest products
- 6) Grazing
- 7) Nonstructural foredune maintenance, repair or restoration, not including foredune grading.

Section 5.330 to 5.390. Reserved.

ARTICLE VI

Overlay Zones

Historic-Cultural Overlay Zone (HC)

Section 6.000. Purpose. The purpose of the HC zone is to promote the historic, educational, cultural, economic, and general welfare of the public through preservation, restoration, and protection of buildings, structures, and appurtenances, sites, places, and elements of historic value to the City of Bandon.

Section 6.010. Permitted and Conditional Uses. Within the HC overlay zone all uses permitted outright or conditionally within the underlying general use zone shall be permitted subject to the provisions of that use zone. The provisions of the HC zone shall be applied in addition to those requirements of the underlying zone.

None of the provisions of the HC zone are meant to reduce or replace the provisions of the applicable underlying general use zone.

Section 6.020. List of Historic Sites. The following structures/lots shall be subject to the provisions of the HC/Overlay Zone:

- 1) Breuer Building, 460 1st Street SW (ca.1894)
- 2) Kronenberg (John) Home, 95 Harlem Avenue SE
- 3) Moore Mill Truck Shop, 67 Elmira Avenue SE, Bandon Waterfront (formerly the Nestles Milk Condensing Plant, ca. 1920)
- 4) Bandon Masonic Lodge Building, 108 2nd Street SE (formerly 1st National Bank, ca. 1915)
- 5) Bandon Lighthouse, North Jetty (Bullards Beach State Park)
- 6) Old Coast Guard Building, 390 1st Street SW
- 7) Coquille Indian Tribe Cultural Resource Lands as identified in the Comprehensive Plan.

Section 6.030. Review by Planning Commission. Whenever application for demolition, renovation, or change of use of any site, structure or object which has been determined to have historic significance is proposed or planned, and which would affect the exterior of the site or structure, then before any permit shall be issued therefore, the following procedures shall be taken:

- 1) The applicant for a permit shall present to the Planning Commission information concerning the proposed action and the Planning Commission shall make the findings and recommendations which shall include the following:
 - a) Whether the site, structure or object has maintained the required characteristics for historical significance;
 - b) Whether it has deteriorated or changed so as to become hazardous to the public health, safety, or welfare;
 - c) Whether historical significance will be substantially affected by the proposed change;
 - d) Whether the financial or other hardship to the owner in preserving the historic significance is outweighed by the public interest in preserving historic values;
 - e) Whether there are alternative ways in which historic values may be preserved if the proposed action is carried out;
 - f) Whether the proposed action or change will have any substantial economic, social, environmental or energy consequences on the public and private interests involved;
 - g) Whether there are sources of compensation or financial assistance available to compensate the owner in the event that preservation of the property is recommended by the Commission.

Section 6.040. HC Overlay Zone District Amendments. All applications for HC Overlay zoning and other zone district amendments shall be reviewed by the Planning Commission. The Commission shall recommend to the Common Council approval, disapproval, or modification of the proposed amendment based on the following criteria:

- 1) The structure of site is recognized as a historic site by the Oregon Historic Preservation Office or is listed on the National Register of Historic Places;
- 2) The structure or site is recognized by a local or statewide organization as having historic value and is in the process of being designated as such by the State or Federal government or by the Planning Commission based on unique significance of the structure;
- 3) The site has been shown to be of archaeological importance by the Oregon State Historical Preservation Office.

Section 6.050 to 6.090. Reserved.

Shoreland Overlay Zone (SO)

Section 6.100. Purpose. The purpose of the Shoreland Overlay Zone is to implement the provisions of the shoreland management units adopted in the City's comprehensive plan. The uses for each shoreland management unit are shown on the accompanying "Shoreland Uses/Activities Matrix". These management units are shown on the City's zoning map.

The requirements of this overlay zone are applied in addition to the requirements of the underlying zone. In cases where the requirements of this zone overlap or conflict with the requirements of the underlying zone, the more restrictive shall apply.

Section 6.100. Permitted Uses and Activities. Permitted uses and activities are designated for each management unit in the accompanying table "Shoreland Uses/Activities Matrix". To resolve possible conflicts, the following rules shall apply:

- 1) Uses permitted in the Shoreland Overlay Zone but conditional uses in the underlying zone shall be conditional uses.
- 2) Uses permitted in the Shoreland Overlay Zone but not permitted

in the underlying zone shall not be permitted.

- 3) Activities not listed in the underlying zone shall be permitted or not permitted according to this overlay zone.

Section 6.120. Conditional Uses and Activities. The conditional uses listed in the accompanying table, "Shoreland Uses/Activities Matrix" may be allowed when in accordance with Article VII, applicable conditions of approval listed as footnotes on the table, and applicable policies of the comprehensive plan. Plan Estuary policies "A" through "U" are included herein by reference and made a part of this ordinance.

Section 6.130. Correspondence with Underlying Zone. Specific uses listed in the underlying zone but not listed in this overlay zone shall be considered under the general category of use which corresponds to the specific use.

Section 6.140. Special Provisions. All uses and activities, whether permitted or conditional, must conform to the standards listed below and "Shoreland Uses/Activities Matrix", appearing as

Section 6.290 of this ordinance. These standards are applicable to wetlands shown on the National Wetlands Inventory Map and other inventory maps of the City.

- 1) Dredged Material Disposal (DMD), Restoration (R), or Mitigation (M) sites. Uses otherwise permitted by this ordinance but proposed within a designated DMD, R, or M site shall be permitted only upon satisfying all of the following criteria:
 - a) The proposed use must not entail substantial structural or capital improvements, such as roads, permanent structural or capital improvements, such as roads, permanent buildings, or nontemporary water and sewer connections;
 - b) The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site - such as extensive site grading/excavation or elevation from fill;
 - c) The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat.
- 2) Significant Wildlife Habitat. These sites are limited to uses and activities which are consistent with the protection of natural values. Such uses may include harvesting wild crops and low intensity recreational and educational activities not requiring developed facilities.

- 3) Riparian Vegetation. Riparian vegetation shall be protected as per Section 9.090 (1) and (2), and by requiring a site plan showing (as applicable):
 - a) The shoreline
 - b) The shorelands plan boundary
 - c) The extent of riparian vegetation
 - d) The details of proposed construction or access and any proposed vegetation removal
 - e) The above shall be shown for an area within 50 feet horizontal distance from the line of nonaquatic vegetation
- 4) Areas Especially Suited for Water-Dependent Uses (ESWD). Any use proposed for a site designated as ESWD on the Special Features Map must be found to be consistent with Comprehensive Plan Policy "L".
- 5) Historic Structures and Sites. The Bruer Building, the Bandon Lighthouse, the Old Coast Guard Building and the Moore Mill Truck Shop are protected by the Historic-Cultural Overlay Zone (HC), and all uses shall be consistent with Comprehensive Plan Policy 2 Historical and Archaeological Preservation.

Section 6.150. Supplemental Provisions for Estuarine and Shoreland Uses/Activities. The following provisions shall be applied as applicable to implement Sections 5.100 through 5.290:

- 1) Pre-Application Conference. The applicant may request a pre-application conference which will be held within ten (10) days of the request. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the ordinance and comprehensive plan, provide for an exchange of information regarding applicable elements of the Comprehensive Plan and City ordinances, determine what technical and design assistance will be needed to aid the applicant, identify previously approved development proposals of a similar nature in conformance with necessary state and/or federal permit requirements, indicate what information will be required to review the application, and otherwise identify policies and ordinance requirements that create opportunities or pose constraints for the proposed development.

Section 6.160. Notification of Public Agencies. For conditional uses within the Shoreland Overlay Zone, the following agencies shall be notified by mail according to the Notice provisions as stated in Section 14.030:

- 1) State Agencies
 - a) Division of State Lands

- b) Department of Fish and Wildlife
- c) Department of Environmental Quality
- 2) Federal Agencies
 - a) Army Corps of Engineers
 - b) National Marine Fisheries Service
 - c) U.S. Fish and Wildlife Service
- 3) Other Notification (where applicable)
 - a) State Water Resource Department (uses including appropriation for water only)
 - b) State Department of Geology and Mineral Industries (mining and mineral extraction only)
 - c) State Department of Energy (generating and other energy facilities only)
 - d) Department of Economic Development (docks, industrial and port facilities and marinas, only).

Section 6.170. Information to be provided. In addition to the information listed in Article VII and in the underlying zone and in other parts of this ordinance, the following information may be required, as applicable:

- 1) Identification of resources existing at the site
- 2) Description of the types of alteration to occur, if any, including information detailing the extent of the alteration, such as:
 - a) Area measurement
 - b) Site coverage
 - c) Depth to which alterations will extend
 - d) Volume of material removed or placed as fill.
- 3) Effects of the proposed use on physical characteristics of the estuary and the proposed site, such as:
 - a) Flushing
 - b) Patterns of circulation and other hydraulic factors
 - c) Erosion and accretion patterns
 - d) Salinity, temperature and dissolve oxygen
 - e) Biological and chemical oxygen demand
 - f) Turbidity and salinity characteristics of the water
- 4) Effects of the proposed use on biological characteristics of the estuary and shorelands such as:
 - a) Benthic habitats and communities
 - b) Anadromous fish migration routes
 - c) Fish and shellfish spawning and rearing areas
 - d) Primary productivity, resting, feeding and nesting areas for migratory and resident shorebirds, wading birds and other waterfowl

- e) Riparian vegetation
- (f) Wildlife habitat
- 5) Effects of the proposed use on other established uses in the area.
- 6) Impacts of the proposed use on navigation and public access to shoreland or estuarine areas.
- 7) Assurance that structures have been properly engineered.
- 8) Alternative project designs and/or locations which have been considered in order to minimize preventable adverse impacts.
- 9) Steps which have been taken to minimize or avoid adverse impacts.
- 10) If application has been made to the Corps of Engineers of Oregon Division of State Lands for permit approval, applications for local approval shall include the federal/state permit application and information submitted with that request.
- 11) A set of findings which demonstrate compliance with the applicable policies, standards, the criteria required by the comprehensive plan and this ordinance.
- 12) Maps, photographs, or other descriptive materials showing how the siting, design, operation, and maintenance chosen by the applicant meets the policies, standards and criteria of the comprehensive plan and this ordinance.

Section 6.180. Resource Capabilities Test. Certain uses in estuarine areas require findings of consistency with the resource capabilities of the area. For uses and activities requiring the resource capabilities test a special condition is noted in the applicable subdistrict. Other uses either do not require the test or adequate findings are already included in the comprehensive plan.

The provisions of this section apply only to those uses and activities for which the resource capabilities test is required as a special condition.

- 1) A determination of consistency with resource capabilities shall be based on:
 - a) Identification of resources existing at the site, including environmental (e.g., aquatic life and habitat present, benthic populations, migration routes) and social and economic factors (navigation channels, public access facilities, areas especially suited for water-dependent use).
 - b) Evaluation of impacts on those resources by the proposed use.
 - c) Determination of whether the resources can continue to achieve the purpose of the management unit if the use is

approved.

- 2) In determining consistency of a proposed use with the resource capabilities of the area, the City shall rely on federal or state resource agencies for regulated activities in estuarine areas. Findings showing that the proposed use is consistent with permits area approved. The City may submit proposed findings to the permit issuing agency as a part of the local review and comment process.

Section 6.190. Dredge, Fill, or Other Significant Reductions or Degradations. Uses and activities which involve dredge, fill or other significant reductions or degradations of natural estuarine values only if such activities area allowed in the respective Management Units and the actions are found to be consistent with Comprehensive Plan Policy "E". For the purpose of this requirement, "significant" shall be determined by:

- 1) The U.S. Army Corps of Engineers through its Section 10 and 404 permit processes; or
- 2) The Department of Environmental Quality for approvals of new aquatic log storage areas only; or
- 3) The Department of Fish and Wildlife for new aquaculture proposals only.

Section 6.200. Impact Assessment. Findings for uses in Sections 6.180 and 6.190 shall be made according to Comprehensive Plan Policy "E". Findings need not be lengthy or complex, but it shall provide a clear understanding of the impacts to be expected.

Section 6.210. Coordination with Division of State Lands (DSL) State/Federal Waterway Permit Reviews. If the City is notified by DSL that a state or federal permit has been requested for a use or activity which is permitted outright or permitted with standards, the following provisions shall apply:

- 1) No application to the City is necessary for uses or activities which do not require local approval. Local input shall be provided to permit-granting agencies in response to public notice provisions of their application procedures.
- 2) The fact that a use or activity is permitted, permitted conditionally or not permitted shall be reported to the permit-granting agency within three working days of a public notice or other request for such information. The report shall contain a statement of what, if any standards and conditions must be applied if the permit is granted and the need, if any, for other local permits for uses associated with the regulated activities. Also, the City may submit proposed findings to the

permit agency as a part of the local review and comment process.

Section 6.220 to 6.280. Reserved.

Section 6.290

SHORELAND OVERLAY (SO) ZONE
SHORELAND USES/ACTIVITIES MATRIX

SHORELANDS MGMT UNIT NO.	1	2	3A	3E	4	5	6	7	8	9	10
PLAN DESIGNATION	<u>PF</u>	<u>CD</u>	<u>MC</u>	<u>ESWD</u>	<u>PF</u>	<u>UR</u>	<u>OTC</u>	<u>OS</u>	<u>CD</u>	<u>PF</u>	<u>NR</u>
USES											
=====											
AQUACULTURE	NP CU	NP NP	P	P	NP	P	NP	NP	NP	NP	CU
COMMERCIAL USES											
Water-Dependent	NP NP	NP NP	P	P	NP	NP	NP	NP	NP	NP	NP
Water-Related		NP	NP NP	P NP	CU* NP	NP	NP	CU	NP	P	NP
Not Dependent or Related		NP	CU NP	P	NP	NP	NP	CU	NP	P	NP
Water Oriented	NP NP	NP NP	CU NP	P	NP	NP	NP	P	NP	P	NP
INDUSTRIAL USES											
Water-Dependent	NP NP	NP NP	P	P	NP	NP	NP	NP	NP	NP	NP
Water-Related		NP	NP NP	P NP	CU* NP	NP	NP	CU	NP	P	NP
Not Dependent or Related		NP NP	NP NP	P	NP	NP	NP	CU	NP	P	NP

LOG STORAGE		NP NP	NP NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
MARINAS (on-shore facilities)		NP NP	NP NP	NP	P	NP	NP	NP	NP	CU	NP	NP	NP
RECREATIONAL USES													
Water-Dependent		P1	PCU P1	P	P	P	P	NP	NP	NP	P	P1	
Water-Related			NP	CU P1	P P1	CU* P1	P	P	P	NP	CU	NP	
Not Dependent or Related		P1	NP P1	CU P1	P	NP	P	P	P	P	P	NP	
RESIDENTIAL		NP NP	CU CU6	P	NP	NP	P	P	NP	P	NP	NP	
UTILITIES			P	P CU	P CU	CU* P	P	CU	P	P	P	P	
PARKS & SANCTUARY		P CU	CU CU	NP	CU	CU	P	P	CU	P	P	P	
HARVEST WILD CROPS	P	P	NP	NP	NP	P	NP	P	NP	P	P	P	P
PUB. USE STRUCTURE	P	CU	CU	CU* CU	P	CU	CU	P	CU	P	CU	CU	
INCLUDING RECREATIONAL													
HISTORICAL STRUCTURE	P	CU	CU	CU* CU	P	CU	CU	P	CU	P	CU	CU	
INCLUDING REHAB.													
FOREST PRODUCTS													
Propagation &		CU	NP CU	NP NP	NP	NP	NP	NP	NP	NP	NP	NP	
Selective Harvest													
GRAZING		CU	NP CU	NP NP	NP	NP	NP	NP	NP	CU	NP	NP	

(Matrix continued and Key to abbreviations on next page)

Section 6.290 (Continued)

SHORELAND OVERLAY (SO) ZONE
SHORELAND USES/ACTIVITIES MATRIX

SHORELANDS MGMT UNIT NO.	1	2	3A	3E	4	5	6	7	8	9	10	
	11	12										
<u>PLAN DESIGNATION</u>	<u>PF</u>	<u>CD</u>	<u>MC</u>	<u>ESWD</u>	<u>PF</u>	<u>UR</u>	<u>OTC</u>	<u>OS</u>	<u>CD</u>	<u>PF</u>	<u>NR</u>	<u>NR</u>
	<u>CD</u>											
ACTIVITIES =====												
DREDGED MATERIAL												
Disposa			INP	NP	NP	NP	NP	NP	NP	CU	NP	
	CU	NP	NP									
									2,3,5		2,3,5	
DUNE STABILIZATION and RESTORATION												
Active			NP	CU	NP	NP	NP	NP	NP	NP	NP	
	NP	CU	CU	CU								
Passive			NP	P	NP	NP	NP	NP	NP	NP	NP	P
	P	P										
FILL			NP	NP	P	CU	NP	NP	NP	NP	P	
	NP	NP	NP	CU								
LAND DIVISION		NP	P	P	NP	P	P	P	P	NP	CU	
	CU	CU										
MITIGATION		NP	P	NP	NP	NP	NP	NP	NP	P	NP	P
	P	CU										
SHORELINE STABILIZATION												
Structural		CU4	CU4	CU4	CU4	CU4	NP	CU4	NP	CU4	CU4	
	CU4	CU4	CU4									

Nonstructural

P P P P P P P P P P P P

=====

PF - PUBLIC FACILITIES

P - PERMITTED

CD - CONTROLLED DEVELOPMENT

CU - CONDITIONAL USE

MC - MARINE COMMERCIAL

NP - NOT PERMITTED

UR - URBAN RESIDENTIAL

* must be in conjunction with a

OTC - OLD TOWN COMMERCIAL

water-dependent use

OS - OPEN SPACE

I - INDUSTRIAL

NR - NATURAL RESOURCE

ENDNOTES

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1. Low intensity uses only
2. In designated site only
3. Dredged Material Disposal (DMD) must include stabilization measures to control run-off and prevent sloughing
4. Subject to Comprehensive Plan Policy "I"
5. Subject to Comprehensive Plan Policy "N"
6. See Bandon Comprehensive Plan, Part V, Land Use Classifications, Public and Environmental Areas, Natural Resource Areas

Architectural Review Board (ARB)

Section 6.300. Purpose. The purpose of the ARB is to administer the provisions of the AR overlay zone by reviewing all applications for Certificates of Appropriateness (COA) and making recommendations to the Planning Commission.

Section 6.310. Certificate of Appropriateness (COA). Certificates of Appropriateness (COA) are required in connection with any change of use of any site, structure or object within an AR overlay zone. The activities which are subject to the ARB standards and require a COA include the erection, reconstruction, alteration, restoration, painting, moving or demolition of any building, structure, wall, fence, steps, pavement, sign, light, fence, exterior signs, landscaping or plantings. The aforementioned shall be subject to the terms of the COA and such activities shall not be begun until the COA is approved and obtained. A COA is considered a limited land use decision.

Section 6.320. Architectural Review Board. There is hereby created an Architectural Review Board (ARB) for the City of Bandon consisting of five members, all of whom shall be appointed by the Mayor with Council approval. One member may be a non-resident of the City of Bandon, but must be a resident of the Bandon School District. The term of office shall be two years, expiring on December 31, with two members appointed in even years and three members appointed in odd years. Vacancies shall be filled in the same manner as original appointments. Individuals with credentials in architecture, landscape architecture, design or site planning are especially desirable. The Board shall meet at least once a month and from time to time as it may desire, unless no applications are on file for it to review.

Section 6.330. Application for COA. All applications for a COA in the Architectural Review Overlay Zone shall be filed with the City Recorder according to the prescribed forms and upon payment of the prescribed fee and shall be reviewed by the Architectural Review Board at its next regular meeting after the filing of the application if the application is filed not less than thirty (30) days before the meeting.

Notice requirements pertaining to limited land use decisions shall be met.

The Board shall review an application for a COA and hear all arguments and evidence in support of and against the proposal that may be offered. It shall consider the proposal's appropriateness and compliance with governing and controlling guidelines for the area in which the subject property is located.

The Board shall recommend to the Planning Commission action on the application.

Section 6.340. Planning Commission Decision. At its next regular meeting following the Board meeting as provided in Section 6.330, the Planning Commission shall receive the recommendation of the Board and approve or reject the application. The Planning Commission may take additional evidence if it so desires.

Section 6.350. Appeal. Any party who is aggrieved by the decision of the Planning Commission may appeal the decision to City Council as per Section 14.090 (2). The appeals hearing shall be held according to Section 14.090 (5).

Section 6.360 to 6.390. Reserved.

Architectural Review Overlay Zone (AR)

Section 6.400. Establishment; Boundaries; Purposes. This Section establishes the Architectural Review Overlay Zone (AR) and describes the boundaries of that district on the Zoning Map and makes the District subject to the Architectural Review Overlay Zone regulations. The boundaries are shown on the "Architectural Review Overlay Zone Map".

The purpose of this ordinance is generally the promotion of the general welfare of the public through the preservation, restoration, protection and regulation of the buildings, structures, appurtenances, sites, places and elements of Old Town Bandon and to achieve a visual atmosphere of a coastal village of long ago. Specifically this ordinance is meant to aid in the following:

- 1) Stabilize and improve property values in the District
- 2) Foster civic pride in the beauty and accomplishments of both the past and present.
- 3) Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry.
- 4) Strengthen the economy of the City.
- 5) Promote the use of the historical district, its landmarks and scenic areas for the education, pleasure and welfare of Bandon citizens.

Section 6.410. Application of Provisions. Within the AR Zone all uses permitted outright or conditional within the underlying general use zone shall be allowed subject to the provisions of that use zone. The provision of the AR Zone shall be applied in addition to those requirements of the underlying zone. None of the provisions of the AR Zone are meant to reduce or replace the provisions of the applicable underlying general use zone.

Section 6.420. Application for Certificate of Appropriateness. No building or structures, including walls, fences, steps and paving shall be erected, reconstructed, altered, restored, painted, moved or demolished within the Old Town district and no sign, light, fence, wall or other appurtenant fixture hereinafter called "appurtenant fixtures" shall be erected or displayed within the district on any lot or visible from the exterior of any building or structure located within said district unless an application of a Certificate of Appropriateness (COA) shall have been approved by the Board according to this ordinance. Further, no building or other permit shall be granted for any such purpose in the Architectural Review Overlay Zone until such COA has been issued. Nothing herein contained shall be so construed as to require any affirmative action on the part of any person or property owner with respect to improving existing buildings or uses.

Section 6.430. Architectural Review Board's Review of Application of Certificate of Appropriateness. The Board, in considering applications for COA's, shall consider the appropriateness of proposed exterior features of buildings, structures and appurtenant fixtures, location on the lot and removal or demolition of any building or structure in the district whenever such exterior features, buildings, structures and appurtenant fixtures are subject to

public view from a public street or way. All plans, elevations, colors, materials, textures, landscaping and such other information deemed necessary by the Board to determine the appropriateness of the exterior features of buildings in question shall be made available to it by the applicant.

The Board, in considering the appropriateness of exterior features, shall keep in mind the intent and purpose of this ordinance and shall consider the historical and architectural value and significance, architectural style, the general design, arrangement, texture, scale, materials and colors of the building or structure and appurtenant fixtures of buildings or structures in relation to the street or public way and to other buildings and structures.

The following criteria shall be considered appropriate to the proposed improvement before a Certificate of Appropriateness shall be approved:

- 1) Landscaping.
 - a) Planting material. Removal of mature trees and shrubs is discouraged and should not be done unless there is no alternative. Care should be taken to select plants appropriate to the landscaping requirement (shade, groundcover, screening, etc.). Consideration should be given to the future care and maintenance of all plant material.
 - b) Landscape continuity. Plants and other landscaping elements (fences, walls, steps, etc.) should be used to create continuity among buildings, especially along the street edge and front yards.
 - c) Fences. The height and design of fences should relate to their intended use and to the principal structure on the lot. Where fences are used they should be of wood, iron, stone or plant material. Chain link or similar metal fences, plastic, fiberglass or plywood fences are discouraged.
 - d) Sidewalks and driveways. Where walkways and driveways are necessary, asphalt should be avoided. Brick and other materials indigenous to the area are appropriate for walkways. Aggregate concrete or gravel are appropriate for driveways.
- 2) Building Design.

- a) Building size and surroundings. The height, width and depth of the building should be compatible with the nearby buildings, especially those most adjacent.
 - b) Scale. Buildings can be made to appear larger or smaller than they actually are through the use of architectural elements and details. Buildings should have an apparent size which relates to adjacent structures, the intended use and the height of the human being.
 - c) Alignment. The building should be aligned parallel to the existing structures or the street, maintaining the traditional pattern.
 - d) Orientation. The entrance location and primary façade of the building should be oriented in the same or similar direction of nearby buildings.
 - e) Building Shape. The ratio of height to width of the different elevations of the building should be consistent with that of nearby buildings.
 - f) Scale of opening. The ratio of open surfaces (windows, doors) to enclosed surfaces (vertical and horizontal) which is similar to nearby buildings.
 - g) Directional emphasis. The building shape, size, open and enclosed areas and building elements should together give a directional emphasis (vertical and horizontal) which is similar to nearby buildings.
 - h) Foundations. Exposed foundation walls should be as inconspicuous as possible and compatible with total architectural style of the structure.
 - i) Outbuildings. Size and scale of outbuildings should relate to the primary structure on the lot and should not be located so as to compete with or distract from that primary structure.
- 3) Architectural Features.
- a) Roof form. The size, shape and type of roof should complement those of nearby structures.
 - b) Openings. The height, width and shape of door and window openings should be compatible with nearby buildings.
 - c) Projections. Projecting elements (dormers, bays, cupolas, turrets, etc.) should be compatible with those (if any) on adjacent structures and should be an integral part of the structure. Marquees should have sufficient roof slant to shed debris which could accumulate and create a fire hazard.

- d) Additions. Additions such as porches, decks and exterior stairways should be compatible in size, shape and type with those found in nearby buildings and should be integrated into the overall design of the structure.
 - e) Exterior wall form. The size, shape and texture of exterior walls should be compatible with that of nearby buildings.
- 4) Materials.
- a) Type. The type of materials used should be selected from those acceptable materials already present in the area. An effort should be made to maintain the spectrum of materials already historically present.
 - b) Pattern. The pattern created by the unit size of the material (bricks, siding, shingles, etc.) and the method of application should be similar to those already present in the area.
 - c) Texture. The texture of materials (both visual and tactile) should be similar to those of materials present in the area.
 - d) Color. The color of the materials should be from the approved color list or as otherwise approved by the Commission.
- 5) Utilities and Mechanical Equipment.
- a) Utility lines. All utility lines should be underground and entry fixtures located away from high-use areas and main entrances or screened in an approved manner.
 - b) Exterior lighting. All lighting should be appropriate to the building and its surroundings in terms of style, scale and intensity of illumination. Low voltage systems are recommended and site lighting will be considered on an individual case by case basis.
 - c) Solar energy devices. Where solar energy is to be used as a primary or complementary source of heat or other energy, solar collection devices should be located on the rear or other non-public side of the building, or on roof surfaces which are not visible from adjacent streets or other public areas in the City. Solar collection devices which are not attached to the building should be located only in the side or rear yard.
 - d) Mechanical equipment. To minimize the impact of mechanical equipment on

the appearance of the building and the community, window air conditioning units or condenser elements should not be located on the façade. Antennas and satellite dishes and other receiving equipment should be located where they are not visible from the front façade. Mechanical equipment on the ground should be screened with a fence or plant materials, or housed in a structure which is in harmony with the surroundings. Mechanical equipment attached to the side or roof of a building, including heating vents, should be kept as low as possible and covered or painted to blend with the background.

The Board shall not make any recommendation or requirements except for the purpose of preventing developments obviously incongruous to the historic or quaint aspect of the immediate surroundings and the Old Town District.

Section 6.440. Signs.

- 1) Exterior signs requiring a Certificate of Appropriateness. Exterior signs within the AR overlay zone which are not exempted by Section 6.440 (2) must receive a COA from ARB before installation or before any change in design, size, color(s), or location is made.

Exterior signs are signs that are attached to the exterior of a building or to transparent surfaces such as glass doors or windows so as to be visible from outside the building, or any other sign that is located on the premises and visible from outside the building.

- a) Criteria. In considering applications for COA's, signs shall be reviewed for their compliance with the following requirements:
 - (1) Graphics: These shall be clear, legible and of a professional quality.
 - (2) Materials: Permitted materials for signs are wood, metal, stained glass and ceramics. Paper or plastic signs are not allowed as permanent external signs, except that a menu not exceeding 2 square feet in area may be placed in the window or door of restaurants.
 - (3) Colors: Colors of exterior signage must receive approval from the ARB. Preapproved color swatches can be seen at City Hall. Colors of signs will

be compatible with the surrounding buildings, signs and general area.

- (4) Size: The area of a sign shall be determined by the area of the circle or rectangle required to contain it.
 - a. The size and total area of allowed front exterior signs shall be determined by the façade area of the building.
 - b. The façade area of a building is the area of the front of the building as defined by the main customer entrance, from the ground or street level to the roofline or top of the façade or marquee, whichever is higher.
 - c. Each building shall be allowed a total exterior signage area for the front or façade of the building equal to 10% of the façade area of the building with no single sign being larger than ½ of that total area.
 - d. On the side and back exterior walls of buildings, signage equaling 5% of the wall's area can be permitted. These signs must be flush-mounted parallel to the wall.
 - e. The total exterior signage area for a building shall not be effected by the number of businesses located in the building. The building owner is ultimately responsible for allocating this allowed area to the businesses located therein and for insuring compliance of signage area limitations in the case of multiple businesses being located in a building.
 - f. Both sides of double-sided signs shall be of the exact same design. Only one side will be included in the area of that sign.

b) Administrative and Temporary COA.

- 1) In situations where the applicant can show serious and immediate need, a Temporary COA for signage can be awarded by City staff provided that the applicant submit scale drawings of the proposed sign(s), façade measurements, dimensions of all existing signage and its location, and any other necessary information showing that the proposed sign(s) clearly

comply with the requirements of this ordinance. The granting of a Temporary COA shall not in any way be construed as approval by the ARB and shall be temporary. The ARB shall review Temporary COA's and shall approve or deny their permanent status at its earliest possible convenience. If denied, the sign will be removed by the applicant within 72 hours of the final decision.

c) Sign requirements and restrictions.

- 1) Electrical or mechanical signs: Exterior signs shall not be mechanical. Signs may be lit by very low level lighting during evening hours. No sign shall contain or be illuminated by any flashing, blinking, moving or rotating light. Neon signs shall not be larger than four (4) square feet in area or be less than fifteen (15) feet apart. Reader boards and electronic message display signs are prohibited.
- 2) Free-standing signs: Sandwich boards, pedestal sign holders, and other types of free-standing signs shall be considered front exterior signs and shall be included as part of the maximum allowed area for such signs, and are prohibited in the public right-of-way.
- 3) Off premise signs: All signs must be located on the same property as the building which houses the business. No off premise signs are allowed in the AR Overlay Zone.
- 4) Roof signs: No sign shall be placed on the roof of a building or on the top of a façade or marquee. No part of any sign shall extend above the roofline or the top of the façade or marquee, whichever is higher.
- 5) Trademarks or symbols: Signs which display the symbol, slogan or trademark of any product or business other than the business or businesses occupying the site are prohibited except neon signs as allowed in Section (c) (1).
- 6) Obstructions: No sign or portion thereof shall be so placed as to obstruct any fire escape or human exit from any portion of a building or obstruct natural light or ventilation.

- 7) Projecting into Right-of-Way: No sign projecting over or into a public right-of-way shall extend more than 6 feet from the building, or be closer than 2 feet to the face of the curb or edge of the street, or be less than 8 feet above the ground at its lowest point.
 - 8) Art: The ARB encourages the use of tasteful art within the ARB Overlay Zone. Art that promotes a nautical theme or indigenous elements is specifically encouraged. Art that clearly does not include any reference to the business or its products, either expressly or by common association, and is displayed purely for the enjoyment of the public, can be granted an exemption from the requirements of this ordinance by the ARB. All other art will be considered to be signage, and will be included as part of the front exterior sign area total. In considering these requests for exemption, the ARB can rule on and set requirements on matters including but limited to appropriateness of subject matter, location, scale, colors, quality and aesthetics.
 - 9) Temporary Signs: All temporary signs in the AR Overlay Zone must be approved by the ARB. Conditions may be set by the ARB on items including but not limited to length of time that the sign will be allowed, color, design, content, size, or location.
 - 10) Public Plaques: Public memorials, cornerstones and plaques must receive a COA from the ARB prior to installation.
- 2) Signs not requiring a Certificate of Appropriateness.
- a) Criteria. The following signs shall not require a certificate of appropriateness, but must otherwise conform to the applicable COA requirements of Section 6.440 (1).
 - 1) Signs within a building and not directly visible from outside the building.
 - 2) One on-site real estate sign per lot or group of lots in contiguous ownership while said property is for sale, rent or lease. The following shall apply to all signs in this category:

- a. The maximum allowed area of the sign shall be 4 square feet or .0004 x the area of the property, but not to exceed 16 square feet.
 - b. Signs of 4 square feet or less shall set back a minimum of 5 feet from any street right-of-way or property line, and signs 16 square feet shall be set back a minimum of 50 feet from any street right-of-way or property line. Signs of an area between 4 and 16 square feet will be set proportionally to these requirements. Signs that refer to a building may be placed on the building even if the building's setback is less than 5 feet.
 - c. No sign higher than 2 feet 6 inches tall shall be located in a required vision clearance area.
 - d. All signs shall be of a professional quality and be maintained to a professional appearance.
 - e. Signs in this category require administrative approval by the City Manager or designee to insure that all ordinance requirements are met, including appearance, size and siting.
 - f. Signs in this category will be removed within seven (7) days of closing of escrow, rent or lease of the property.
- 3) One sign will be permitted at the site of construction to identify building contractors. The sign shall not exceed 9 square feet. The sign may be erected after the building permit has been issued. The sign must be removed prior to the issuance of an occupancy permit.
 - 4) Political signs advertising a candidate or a ballot issue shall not be located on City, State, Federal, or any other public property. The signs shall be removed within two days after the election.
 - 5) A nameplate for a residence not exceeding one square foot in area is allowed. The placement of the sign shall conform to setback requirements.
 - 6) A sign for an approved home occupation, not to exceed one square foot

in area, is allowed.

- 7) Incidental signs displayed strictly for a direction, safety, or the convenience of the public, including but not limited to signs that identify restrooms, public telephones, parking area entrances and exits are allowed, except that they will only be as large as necessary, uniform in design and graphics, and of a color in harmony with the surroundings and the theme of the Old Town area. Individual signs in this category shall not exceed 2 square feet in area.
- 8) Signs identifying individual motel units shall be no larger than one (1) square foot.

Section 6.450. Validity Period. COAs issued under this ordinance shall be valid for a period of one (1) year following the date of its approval. If at the end of that time, construction or the activity approved has not begun, then the plan shall lapse and be in effect only if given new Board approval upon resubmission of the plan application. All construction and development under any building permit shall be in accordance with the approved COA plan and any departure from the plan shall be a cause for revocation of a building permit or considered a violation of this ordinance.

Section 6.460 to 6.590. Reserved.

Airport Overlay Zone (AO)

Section 6.600. Purpose. The Airport Overlay Zone (AO) is intended to prevent the establishment of air space obstructions in airport approaches and surrounding area through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the City of Bandon and Coos County.

In order to carry out the provisions of this overlay zone there is hereby created and established an Airport Overlay Zone, which includes all of the land lying beneath the Airport Imaginary Surfaces as they apply to the Bandon State Airport in Coos County. Such zones are shown on the current "Airport Approach and Clear Zone Maps", which are hereby made a part of this Ordinance.

Section 6.610. Compliance. In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of this overlay zone. In the event of any conflict between any provisions of this overlay zone and the primary zoning districts, the more restrictive provision shall apply.

Section 6.620. Special Definitions.

- 1) Airport Approach Safety Zone. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of 1,250 feet. The Airport Approach Safety Zone extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward (20:1).
- 2) Airport Hazard. Any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
- 3) Airport Imaginary Surfaces. Those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
- 4) Clear Zone. Extends from the primary surface to a point where the approach surface is 50 feet above the runway end.
- 5) Conical Surface. Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the Primary Surface of each visual and utility runway at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.

- 6) Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the Primary Surface of the runway and connecting the adjacent arcs by lines tangent to those arcs.
- 7) Noise Sensitive Areas. Within 1,500 feet of the airport or within established noise contour boundaries exceeding 55 Ldn.
- 8) Place of Public Assembly. Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.
- 9) Primary Surface. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of the runway. The width of the Primary Surface is 500 feet.
- 10) Transitional Zones. Extend seven (7) feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).
- 11) Utility Runway. A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Section 6.630. Permitted Uses within the Airport Approach Safety Zone.

- 1) Farm use, excluding the raising and feeding of animals which would be adversely affected by aircraft passing overhead.
- 2) Landscape nursery, cemetery or recreation areas which do not include buildings or structures.
- 3) Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights or result in glare, or in any way impair visibility in the vicinity of the landing approach. Approach surfaces must clear these by a minimum of 15 feet.

- 4) Pipeline.
- 5) Underground utility wire.

Section 6.640. Conditional Uses within the Airport Approach Safety Zone.

- 1) A structure or building accessory to a permitted use.
- 2) Single family dwellings, mobile home, manufactured dwelling, duplexes and multi-family dwellings, when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Coos County a Hold Harmless Agreement and Aviation and Hazard Easement and submits them to the airport sponsor and Bandon Planning Commission.
- 3) Commercial and industrial uses, when authorized in the primary zoning district, provided the use does not result in the following:
 - a) Creating electrical interference with navigational signals or radio communications between the airport and aircraft
 - b) Making it difficult for pilots to distinguish between airport lights or others.
 - c) Impairing visibility.
 - d) Creating bird strike hazards.
 - e) Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use the airport.
 - f) Attracting a large number of people.
- 3) Building and uses of a public works, public service or public utility nature.

Section 6.650. Procedures. An applicant seeking a conditional use under Section 6.640 above, shall follow procedures set forth in the conditional use section of the City zoning ordinance (Article VII). Information accompanying the application shall also include the following:

- 1) Property boundary lines as they relate to the Airport Imaginary Surfaces;
- 2) Location and height of all existing and proposed buildings, structures, utility lines and roads; and a
- 3) Notice shall be provided to the Department of Transportation, Aeronautics Division, for

conditional use applications within 5,000 feet of the sides or ends of the runway. The applicant shall furnish a statement from the Oregon Aeronautics Division indicating that the proposed use will not interfere with operation of the landing facility.

Section 6.660. Limitations.

- 1) To meet the standards and reporting requirements established in FAA Regulations, Part 77, no structures shall penetrate into the Airport Imaginary Surfaces as defined above under Section 6.620.
- 2) No structure of public assembly shall be permitted in the Airport Approach Safety Zone.
- 3) No structure or building shall be allowed within the Clear zone.
- 4) Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern, provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
- 5) No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.
- 6) In noise sensitive area (within 1,500 feet of an airport or within established noise contour boundaries of 55 Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be 55 Ldn and above, prior to issuance of a building permit for construction of noise sensitive land use (real property normally used for sleeping or normally use as schools, churches, hospital, or public libraries) the permit application shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 45 Ldn. The planning and building department will review building permits for noise sensitive developments.

Section 6.670 to 6.790. Reserved.

ARTICLE VII

Conditional Uses

Section 7.000. 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 ordinance as conditional uses may be granted, granted with modifica-

tions or denied by the Planning Commission in accordance with the standards and procedures set forth in this Article.

Section 7.010. Authorization to Impose Conditions. In approving an application for a conditional use or the modification of an existing and functioning conditional use the City may impose, in addition to those standards and requirements expressly specified by the ordinance, 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:

- 1) Changing the required lot size or yard dimensions
- 2) Limiting the height of the building(s)
- 3) Controlling the location and number of vehicle access points
- 4) Requiring additional right-of-way areas or changing the street width
- 5) Requiring public improvements including, but not limited to streets, sidewalks, sewer and water line extensions, and bike paths
- 6) Changing the number of off-street parking and loading spaces required
- 7) Limiting the number, size and location of signs
- 8) Requiring diking, fencing, screening or landscaping to protect adjacent or nearby property
- 9) Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust
- 10) Limiting the hours, days, place and manner of operations
- 11) Limiting or setting standards for the location and intensity of outdoor lighting
- 12) Setting requirements on the number, size, location, height and lighting of signs
- 13) Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

Section 7.020. Existing Uses Predating this Ordinance. In the case of a use existing prior to the effective date of this ordinance and which is classified in this ordinance as a conditional use, any alteration of the structure shall conform with the requirements dealing with

conditional uses.

Section 7.030. Approval Standards for Conditional Uses. The approval of all conditional uses shall be consistent with:

- 1) The comprehensive plan
- 2) The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit
- 3) That the site size and dimensions provide adequate area for the needs of the proposed use
- 4) 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
- 5) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features
- 6) All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant
- 7) 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
- 8) All other requirements of the zoning ordinance that apply.

Section 7.040. Conditional Use Cannot Grant Variances. A conditional use permit shall not grant variances to the regulations otherwise prescribed by this ordinance. 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.

Section 7.050. 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:

- 1) 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
- 2) The required fee
- 3) The conditional use plan, data and narrative shall include the following:
 - a) Existing site conditions
 - b) A site plan for all proposed improvements
 - c) A grading plan
 - d) A landscape plan
 - e) Architectural elevations of all structures
 - f) A sign plan
 - g) A copy of all existing and proposed restrictions or covenants
- 4) 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 3 (a) through (g) above 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.

Section 7.060. Major Modifications to Approved Plans.

- 1) An applicant may request approval of a modification to an approved plan by:
 - a) Providing the Planning Director (Director) with 5 copies of the proposed modified conditional use plan
 - b) Providing 12 copies for all exhibits larger than 11" x 17", 12 copies are required
 - c) Providing a narrative addressing the proposed changes as listed in (2) below
- 2) The Director shall determine that a major modification has resulted if one or more of the changes listed below have been proposed:
 - a) A change in land use
 - b) An increase in dwelling unit density

- c) A 10% change in the ratio of the different types of dwelling units to the number of units
 - d) A change in the type of commercial or industrial structures
 - e) A change in the type and location of accessways and parking areas where off-site traffic would be affected
 - f) An increase in the floor area proposed for nonresidential use by more than 10% where previously specified
 - g) A reduction of more than 10% of the area reserved for common space and/or usable open space
 - h) A reduction of specified setback requirements by more than 20%
 - i) An elimination of project amenities by more than 10% where the plan specified they were to be provided, such as:
 - ◆ Recreational Facilities
 - ◆ Screening, or
 - ◆ Landscaping provisions
 - j) A 10% increase in the approved density, or
 - k) Any modification to conditions imposed at the time of the approval of the conditional use permit.
- 3) 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.
- 4) The Director's decision may be appealed as per Section 11.000.

Section 7.070. Minor Modification(s) of a Conditional Use Permit.

- 1) Any modification that is not within the description of a major modification as provided in Section 7.060 (2) shall be considered a minor modification.
- 2) A minor modification shall be approved, approved with conditions or denied following the Director's review based on the findings that:
 - a) No ordinance provisions will be violated, and
 - b) The modification is not a major modification.

- 3) Notice of the Director's decision shall be given as provided by Section 14.030 (8). The decision may be appealed as per Section 15.000.

Section 7.080. 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:

- 1) Yards. In any zone, additional yard requirements may be imposed.
- 2) Height Exception for Churches & 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 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.
- 3) Limitation on Access to Property. The Planning Commission may limit vehicle access from a conditional use to a street.
- 4) Signs. In the case of a conditional use, the Planning Commission may permit the sign limitations of a zone to be exceeded to allow one indirectly illuminated sign or nonilluminated sign, not more than six square feet in area, on each side of a structure abutting a street. In addition, a church may have a bulletin board not exceeding 10 square feet in area. A sign shall pertain to the conditional use and may be permitted in required yards.
- 5) Church. A church may be authorized as a conditional use after consideration of the following factors:
 - a) Sufficient area provided for the building
 - b) 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).
 - c) Location of the site relative to the service area of the church
 - d) Probable growth and growth needs
 - (e) 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.

- 6) Public Utility or Communication Facility. Public utility or communications facility such as a substation, pumping station, radio or television studio or transmitter or a utility transmission line on an easement or right-of-way 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.
- 7) 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:
 - a) 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 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.
 - b) 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.
 - c) Area. The minimum area for a park shall be 40,000 square feet. The average area of sites within a park shall be not less than 2,000 square feet, exclusive of washrooms, recreation areas, roadways and other accessory facilities. No site shall be less than 1,600 feet in area.
- 8) Multi-family housing. When considering a conditional use for multi-family 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.

- 9) 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:
- a) All drive-up uses shall provide at least two (2) designated parking spaces immediately beyond the service window to allow customers requiring excessive waiting time to receive service while parked.
 - b) All drive-up uses shall provide a means of egress for vehicular customers who wish to leave the waiting line.
 - c) The grade of the stacking area shall be flat or downhill to eliminate excessive fuel consumption.
 - d) The drive-up shall be designed to provide natural ventilation for dispersal of exhaust fumes.
- 10) Bed and Breakfasts and Bed and Breakfast Inns. Bed and Breakfasts and Bed and Breakfast Inns are conditional uses in the CD-1, CD-2, CD-3 and C-3 zones and they shall comply with all of the provisions pertaining to vacation rentals as listed in 7.080 (11).
- 11) Vacation Rental Dwellings. Vacation Rental Dwellings (VRDs) are a conditional use in the CD-1 and CD-2 Zones. All VRDs shall comply with the following provisions:
- a) A conditional use permit shall be issued upon assurance and certification that:
 - (1) No more objectionable noise, smoke, dust, litter or odor is emitted from the VRD than a normal neighborhood dwelling.
 - (2) VRDs without private beach access have 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 the location and required use of public beach access points will be taken.
 - (3) VRDs using a joint access driveway shall assure that any other private access does not object to the proposed vacation rental dwelling using the private access.
 - (4) Dwellings will be maintained in conformance with surrounding dwellings in the neighborhood, including landscaping, signage and

exterior maintenance.

- (5) VRDs 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. If a VRD does not have adequate off-street parking, it must obtain parking rights for excess spaces and require their use for excess vehicles.
- (6) There are provisions for regular garbage removal from the premises.
- (7) There shall be a local contact person who can handle complaints and problems as they arise.
- (8) Compliance with all reporting and accounting requirements of the Transient Occupancy Tax Ordinance shall be done.

Section 7.090. Time Limits on Meeting Conditional Uses Physical Improvement Requirements and Conditions. Physical improvement requirements and conditions attached to a Conditional Use permit must be completed and met before the use occurs unless a time table is approved before the use begins by the Planning Commission which indicates the date of completion. If the requirements are not met before the deadline the occupancy shall be withdrawn or withheld.

Section 7.100 to 7.190. Reserved.

ARTICLE VIII

Off-Street Parking and Loading

Section 8.000. Application. In all zones, off-street parking and loading space shall be provided as set forth in Sections 8.010 through 8.190.

Section 8.010. Off-Street Parking. At the time a new structure is erected or enlarged or the use of an existing structure is changed, off-street parking spaces shall be provided as set forth in this section unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if it would result in less space than is required by this ordinance. When square feet are specified, the area measured shall be the gross floor area of the building but shall exclude any space within a building devoted to off-street parking or loading. When the number of employees is specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

- 1) Residential Uses:
 - a) Single-family dwelling Two spaces.
 - b) Two or multi-family dwelling dwelling units Spaces equal to 1.5 times the number of units
 - c) Apartment house, rooming house or boarding house: Spaces for 80 percent of the guest accommodations plus one additional space.
- 2) Commercial/residential uses:
 - a) Hotel: One space per two guest rooms plus one space per two employees.
 - b) Motel: One space per guest room or suite plus one additional space for the owner or manager.
 - c) Club or lodge: Space to meet the combined requirements of the uses being conducted, such as a hotel, restaurant, auditorium, etc.
- 3) Institutions:
 - a) Convalescent hospital One space per two beds for patients or

- nursing home, sanitarium, rest home, or home for the aged: residents.
- b) Hospital: Spaces equal to 1.5 times the number of beds.
- 4) Places of public Assembly:
- a) Church One space per four seats or eight feet of bench length in main auditorium.
- b) Library or reading room: One space per 400 square feet of floor area plus one space per two employees.
- c) Preschool nursery or kindergarten (primary school): Two spaces per teacher.
- d) Elementary or junior high school: One space per classroom plus one space per administrative employee or one space per four seats or eight feet of bench length in the auditorium or assembly room, whichever is greater.
- e) High school: One space per classroom plus one space per administrative employee plus one space for each six students or one space per four seats or eight feet of bench length in the main auditorium, which is greater.
- f) Other auditorium or bench meeting room: One space per four seats or eight feet of length.
- 5) Commercial Amusements:
- a) Stadium, arena or indoor theatre One space per four seats or eight feet of bench length.
- b) Bowling establishment Eight spaces per alley plus one space per

- two without restaurant employees.
- c) Bowling establishment Ten spaces per alley plus one space per two with restaurant employees.
 - d) Dance hall or skating rink: One space per 100 square feet of floor area plus one space per two employees.
- 6) Commercial:
- a) Retail store, except as provided in paragraph (b) of this subsection: One space per 400 square feet of floor area.
 - b) Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture: One space per 600 square feet of floor area.
 - c) Bank or office (except medical and dental): One space per 600 square feet of floor area plus one space per two employees.
 - d) Medical and dental office or clinic: One space per 300 square feet of floor area plus one space per two employees.
 - e) Eating or drinking establishment: One space per 200 square feet of floor area.
 - f) Mortuaries: One space per four seats or eight feet of bench length in the chapel.
- 7) Industrial:
- a) Storage warehouse, manufacturing establishment, freight terminal: One space per employee.
 - b) Wholesale establishment: One space per employee plus one space per 700 square feet of patron serving area.

Section 8.020. Off-Street Loading:

- 1) Passengers. A driveway designed for a continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 pupils.

- 2) Merchandise, material or supplies. Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to handle adequately the needs of the particular use. Loading space that has been provided for an existing use shall not be eliminated if its elimination would result in less space than is required to handle adequately the needs of the use. Off-street parking areas used to fulfill the requirements of this ordinance shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs.

Section 8.030. General Provisions: Off-Street Parking and Loading.

- 1) The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented which show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Should the owner or occupant of any lot or building change the use of which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this ordinance to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.
- 2) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission based upon the requirements for comparable uses listed.
- 3) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of several uses computed separately.
- 4) Owners of two or more uses, structure or parcels of land may agree to utilize jointly the

same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the city in the form of deeds, leases or contracts to establish the joint use.

- 5) Off-street parking spaces for dwelling shall be located on the same parcel with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.
- 6) Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- 7) Unless otherwise provided, required parking and loading spaces shall not be located in a required yard.
- 8) A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being met, including the following:
 - a) Delineation of individual parking and loading spaces
 - b) Circulation area necessary to serve space
 - c) Access to streets and property to be served
 - d) Curb cuts
 - e) Dimensions, continuity and substance of screening
 - f) Grading, drainage, surfacing and subgrading details
 - g) Delineation of obstacles to parking and circulation in finished parking areas
 - h) Specifications as to signs and bumper guards
 - i) Other pertinent details
- 9) Design requirements for parking lots:
 - a) Areas used for parking vehicles and for maneuvering shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.
 - b) Except for parking in connection with dwellings, parking and loading areas adjacent to or within residential zones or adjacent to dwellings shall be designed

to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five nor more than six feet in height, except where vision clearance is required.

- c) Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high and which is set back a minimum of four and one-half feet from the property line.
- d) Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.
- e) A standard parking space shall be 8½' X 19'.
- f) Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- g) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of traffic and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service anticipated traffic. In no case shall access point of service drives to a street be less than 100 feet apart, measured from center to center. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers on street frontage not occupied by service drives.
- h) Driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points 30 feet from their intersection.
- i) Off-street parking or loading areas shall not be located in a required front yard.
- j) All parking lots will meet State requirements for handicapped parking.
- k) For standards not specifically cited in this ordinance, additional dimensional standards for parking lot features shall be consistent with the most recent edition of Architectural Graphic Standards.

- l) For uses other than residential uses, one third of the required spaces may be compact spaces. Compact spaces shall be 8' X 16'.
 - m) For parking lots for motels, restaurants or retail businesses of more than 20 spaces, 5% of the total number of spaces will be R.V. spaces at least 10' wide X 30' long.
- 10) Completion time for parking lots. Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the building inspector. If the parking space is not required for immediate use, an extension of time may be granted by the building inspector, providing a performance bond or its equivalent is posted equaling the cost to complete the improvements as estimated by the building inspector. If the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements constructed under the direction of the City.
- 11) To promote public safety, the number of vehicle access points to arterial roads and highways shall be kept to a minimum. In reviewing applications for land divisions and discretionary permits the Planning Commission shall limit the number of vehicular access points by requiring shared access, reserve strips, eliminating circle drives (with two access points) and taking other actions consistent with the directives of this Section.

Section 8.040 to 8.190. Reserved.

ARTICLE IX

Supplementary Provisions

Section 9.000. Zone Boundaries. Unless otherwise specified, zone boundaries are section or subdivision lines, lot lines, the ordinary high water line or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, the entire parcel shall be placed in the zone that

accounts for the greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than 20 feet. If the adjustment involves a distance of more than 20 feet, the procedure for a zone change shall be followed.

Section 9.010. General Provisions Regarding Accessory Uses. Accessory uses shall comply with all requirements for the principal use except where specifically modified by this ordinance and shall comply with the following limitations:

- 1) Sight-obscuring fences, when located within required front and side yards abutting a street other than an alley shall not exceed two and one-half feet in height measured from the curb elevation. When no curb elevation has been established, the height shall be measured from the established center line grade of the street abutting the yard concerned.
- 2) No sales shall be made from a greenhouse or hothouse maintained as accessory to a dwelling.
- 3) A guest house may be maintained accessory to a dwelling, provided the parcel has adequate square footage to meet ordinance requirements for 2 dwellings on a lot.
- 4) Recreational vehicles, trailer houses, boats 18 feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater. (Amended by Ordinance No. 1418, Nov. 8, 1999.)
- 5) A home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:
 - a) No exterior display shall be permitted
 - b) Exterior signs shall be restricted to those generally permitted in the zoning district in which the home occupation is located
 - c) No exterior storage of materials shall be permitted
 - d) There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.

Section 9.020. Projections from Buildings. Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and

other similar architectural features shall not project more than 18 inches into a required yard.

Section 9.030. Maintenance of Minimum Ordinance Requirements. No lot area, yard or other open space, or required off-street parking or loading area, existing on or after the effective date of this ordinance, shall be reduced below the minimums required by this ordinance; nor shall any lot area, yard or other open space or off-street parking or loading area which is required by this ordinance for one use be used as the lot area, yard or other open space or off-street parking or loading area required for any other use, except as provided in Section 8.030(4).

Section 9.040. General Exception to Lot Size Requirements. If a lot, or the aggregate of contiguous lots, held in single ownership and recorded in the office of the clerk of Coos County on December 7, 1966 (the date of passage of the original zoning Ordinance No. 868) or prior to the annexation of that property if that land was legally divided under the applicable ordinance standards of Coos County, and has an area or dimension which does not meet the current lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, and providing if there is an area deficiency, a residential use shall be limited to the number of dwelling units consistent with the density requirement of the zone.

Section 9.050. General Exception to Yard Requirements.

- 1) Subject to the requirements of Subsection (2) of this Section, the following exceptions to the front yard requirement for a dwelling are authorized for a lot in any zone:
 - a) If there are dwellings on both abutting lots with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
 - b) If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth of one-half way between the front yard depth of the abutting lot and the required front yard depth.
- 2) No yard abutting Beach Loop shall be less than 15 feet.

Section 9.060. General Exception to Building Height Limitations. The following types of structures or structural parts are not subject to the building height limitations of this ordinance: chimneys, tanks, church spires, belfries, domes, public monuments, fire and hose towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, and other similar projections.

Section 9.070. Access. All lots shall abut a street other than an alley for a width of at least 25 feet.

- 1) The number of access locations onto highways and arterial streets from any development shall be minimized whenever possible through the use of common driveways or side streets common to more than one development and interior vehicle circulation design.
- 2) Highway access shall be coordinated with the Oregon Department of Transportation.

Section 9.080. Vision Clearance Area. No vision clearance area shall contain plantings, walls, structures or temporary or permanent obstructions exceeding two and one-half feet in height measured from the top of the curb or, where no curb exists, from the established street center line grade. Vision clearance areas shall be established at intersections as follows:

- 1) In a residential zone, the distance determining the size of a vision clearance area shall be 30 feet, except that when the angle of intersection between streets is less than 30 degrees, the distance shall be 40 feet.
- 2) In all other zones the distance determining the size of a vision clearance area shall be 15 feet, except that when the angle of intersection between streets is less than 30 degrees, the distance shall be 25 feet.

Section 9.090. Protection of Riparian Areas.

- 1) Riparian vegetation surrounding wetlands is considered significant habitat. This habitat shall be protected by leaving the existing vegetation undisturbed to its full width, if possible, but at least to a width of fifty (50) feet measured horizontally outward from the shoreline. If there is less than fifty (50) feet of vegetation, all of it shall be protected. This shoreline shall be the line of nonaquatic vegetation.

- 2) Water access, trails/paths, picnicking areas, or other recreation (or educational) uses may be permitted if the activities are part of a master plan for any development, and if they constitute no more than 20% cumulative reduction in the total vegetation surrounding the creeks within the zoning designation.

Section 9.100 to 9.190. Reserved.

Article X

Nonconforming Uses and Structures

Section 10.000. Continuation of Nonconforming Use or Structure. Subject to the provisions of Section 10.000 through 10.190, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time this ordinance is adopted shall not be considered an extension of a nonconforming use.

Section 10.010. Nonconforming Structure. A structure conforming with respect to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not deviate further from the standards of this ordinance.

Section 10.020. Discontinuance of a Nonconforming Use.

- 1) If a nonconforming use enclosing a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.
- 2) If a nonconforming use not involving a structure is discontinued for a period of six (6) months, further use of the property shall be for a conforming use.

Section 10.030. Termination of Certain Nonconforming Uses.

- 1) A nonconforming use not involving a structure, or one involving a structure having an assessed value of less than \$200.00, shall be discontinued within two (2) years from the date this ordinance is adopted.
- 2) A use which is nonconforming with respect to provision for screening shall provide screening within a period of five years from the date this ordinance is adopted.

Section 10.040. Change of a Nonconforming Use. If a nonconforming use is replaced by another use, the new use shall conform to this ordinance and shall not subsequently be replaced by a nonconforming use.

Section 10.050. Destruction of a Nonconforming Use. If a nonconforming use is destroyed by any cause to an extent exceeding 80 per cent of the fair market value as indicated by the records of the county assessor, a future structure or use shall conform to this ordinance.

Section 10.060. Completion of Structure. Nothing contained in this ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this ordinance; except that if the building is nonconforming, or is intended for a nonconforming use, it shall be completed and in use within two (2) years from the time the permit is issued.

Section 10.070 to 10.190. Reserved.

ARTICLE XI

Variances

Section 11.000. Authorization to Grant or Deny Variances. The Planning Commission may authorize variances from the requirements of this ordinance where it is shown that owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue or unnecessary hardship; except that no

variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this ordinance.

Section 11.010. Conditions for Granting a Variance. No variance shall be granted unless it can be shown that all the following conditions can be met:

- 1) Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control.
- 2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
- 3) The authorization of the variance will not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located or otherwise conflict with the objectives of any city development plans or policies.
- 4) The variance requested is the minimum variance which will alleviate the hardship.

Section 11.020. Variance Procedure. The procedures for a variance application shall be the same as for a conditional use permit application.

Section 11.030 to 11.190. Reserved.

ARTICLE XII

Zone Changes and Amendments to the Zoning Ordinance or Comprehensive Plan

Section 12.000. Authorization to Initiate Amendments. An amendment to the text or the zoning map of this ordinance or the comprehensive plan may be initiated by the City Council, by the Planning Commission or by a property owner or his authorized agent. The Planning Commission shall hold a hearing and recommend to the Common Council to approve, approve with conditions or deny the proposed amendment. The Common Council may hold a public hearing (public hearings shall occur in accordance with Sections 14.070 through 14.140). Amendments shall be adopted by ordinance.

Section 12.010. 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.

Section 12.020. 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.

- 1) 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:
 - a) The uses permitted
 - b) Public facility improvements such as street improvements, dedication of street right-of-way, sewer, storm drainage, and water
 - c) 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
 - d) The time frame in which the proposed use associated with the zone boundary change is to be initiated.
- 2) Conditions attached to a zone boundary change shall be completed within the time limitations set forth. If no time limitations are set forth, the conditions shall be completed within two years from the effective date of the ordinance enacting the zone boundary change.
- 3) The city council may require a bond from the property owner or contract purchasers in a form acceptable to the city in such an 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.
- 4) 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.
- 5) 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.
- 6) Requests for modification of conditions shall be considered by the zone amendment application and review procedure of Sections 12.000 through 12.030 of this ordinance.
- 7) 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 Sections 12.000 through 12.020.

Section 12.030. Records of Amendments. The City Recorder shall maintain records of amendments to the text and map of the plan and this ordinance in a form convenient for use of the public.

Section 12.040 to 12.190. Reserved.

ARTICLE XIII

Interpretation, Violations, Enforcement and Fees

Section 13.000. Interpretation. The provisions of this ordinance shall be held to be the minimum requirements necessary to fulfill the objectives of this ordinance. Where conditions are imposed under or by provisions of this ordinance or any other ordinance, resolution or regulation the provisions which are more restrictive shall apply.

Section 13.010. 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 ordinance 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.

Section 13.020. Enforcement. The City Manager or designate shall have the power and duty to enforce the provisions of this ordinance. 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

ordinance. Any permit or license issued in conflict with the provisions of this ordinance, shall be void.

Section 13.030. Penalty. Violation of this ordinance is punishable in accordance with Ordinances No. 1374 and 1375², the Enforcement Ordinances.

Section 13.040. Fees. The Bandon Common 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 \$500 plus one-half the actual cost over \$500.

Section 13.050 to 13.090. Reserved.

ARTICLE XIV

Procedures

Section 14.000. Purpose. The provisions of Article XIV provide standard procedures for the activation and decision making process for planning and land use actions.

² Ordinance 1374, An Ordinance Prescribing Rules and Procedures in the Municipal Court of the City of Bandon and Repealing Ordinance No. 834 and All Other Ordinances in Conflict Herewith, repealing Ordinance 1205, An Ordinance Amending Certain Jail Sentences, Providing for Civil Forfeiture and Providing Procedures previously referenced in Section 13.030 and Ordinance 1375, An Ordinance for Enforcement of the City of Bandon's Ordinances Providing for Civil Violations and Penalties; Enforcement Authorities and Power, were adopted by the City Council on 10-21-96 (See Appendix).

Section 14.010. Types of Procedures and Actions.

- 1) Permits or actions that may occur or be approved administratively
- 2) Permits or actions that require plan review, site review, design review or other review at regularly scheduled public meetings
- 3) Permits or actions which may occur only after approval resulting from a public hearing.

Section 14.020. 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 ordinance.

Section 14.030. Time Limit on Action on Applications.

- 1) Except as provided in subsections 4 and 5 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 120 days after the application is deemed complete.
- 2) 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 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 purpose of subsection 1 of this section on the 31st day after the City mailed or delivered notification to the applicant of the required additional information.
- 3) If the application was complete when first submitted or the applicant submits the requested additional information within 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.
- 4) The 120 day period set in subsection 1 of this section may be extended for a reasonable time at the written request of the applicant.
- 5) The 120 day period set in subsection 1 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).

- 6) Local government has 120 days to take final action on an application for a permit or zone change unless the parties have agreed to mediation as described in ORS 197.318 (2)(b).
- 7) 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 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.

Section 14.040. Administrative Review and Approval Process. The Planning Director or other staff as designated by the City Manager shall have the authority to review and approve or deny zoning compliance permits for activities which are listed as permitted uses in the following zoning districts: Residential 1 (R-1), Residential 2 (R-2), General Commercial (C-2).

- 1) Forms. The forms identifying zoning compliance include the Zoning Compliance for Building and the Local Government Approval section of the Building Permit Application.
- 2) Administrative Decisions. A decision on a permit that may be administratively approved shall occur within ten (10) working days after receipt of a complete application.
- 3) The Planning Director may submit applications that normally could be approved administratively to the Planning Commission.

Section 14.050. Limited Land Use Decisions, Permits or Actions That Require Plan Review, Site Review, Design Review or Other Review at Regularly Scheduled Public Meetings.

- 1) The Planning Commission conducts plan reviews, site reviews, design reviews and other reviews for land use activities in the following zoning districts: Controlled Development 1 (CD-1), Controlled Development 2 (CD-2), Controlled Development (CD-3), Controlled Development Residential 1 (CD-R1), Controlled Development Residential 2 (CD-2), Light Industrial and Heavy Industrial. Other Limited Land Use decisions occur as Lot Line

Adjustments and Minor Land Partitions.

- 2) The Architectural Review Board conducts plan reviews, site reviews, design reviews and other reviews for land use activity in the Old Town Commercial Zone (C-1).
- 3) The public reviews described in 14.050 (1) and (2) occur during regularly scheduled public meetings and are required for land use proposals and their relationship to design, siting and other features as described in the appropriate areas of the zoning text. The decisions resulting from these public reviews are based upon the discretionary standards provided to regulate land uses in their appropriate zoning district. The decisions resulting from the public review are considered to be limited land use decisions.
- 4) Complete applications for proposed land uses requiring a public review shall be filed thirty (30) days prior to the next regularly scheduled Planning Commission or if appropriate Architectural Review Board meeting.
- 5) Upon review and determination by City staff that the application is complete a staff report shall be prepared ten (10) days prior to the next regularly scheduled meeting. The application and staff report shall be available for public review ten (10) days prior to the meeting.

Section 14.060. Notice Requirements for Public Land Use Reviews, Limited Land Use Decisions.

- 1) Written notice for a public land use review or limited land use decision shall be provided to, where applicable:
 - a) Owners of property within 100 feet of the entire contiguous site for which the application is made. This list shall be compiled from the most recent property tax assessment roll on file with the City.
 - b) This notice shall be mailed 14 days in advance of the meeting at which the review is to occur. This notice provides a 14 day comment period as specified in ORS 197.195 (3)(c)(a).
 - c) The notice shall provide a summary of the request, a description and or address of the site or subject property, the review criteria, the date, time and place of the review.
 - d) The application and staff report (if one is prepared) are to be available

throughout the comment period for review and copies shall be available at cost.

- e) Upon completion of the land use review, notice of the decision shall be provided to any individual who submits comments under item 14.060 (1)(b).
- f) Notice of the decision shall include a brief summary of the criteria, the decision and the explanation of right of appeal.

Section 14.070. Permits or Land Use approvals which shall only occur after a Public Hearing.

- 1) Decisions pertaining to the following types of land use proposals shall occur only after a Public Hearing has been held: zoning text amendment, zoning map amendment, comprehensive plan amendment, urban growth boundary amendment, subdivision or major land partition, conditional use permits, variances.
- 2) Applications for proposed land uses requiring a public hearing shall be filed thirty (30) days prior to the next regularly scheduled Planning Commission meeting. If the application is deemed incomplete it shall be returned to the applicant within ten (10) days of filing with information describing the inadequacy.
- 3) Upon review and determination that the application is complete a staff report shall be prepared ten (10) days prior to the meeting at which the application is scheduled for public hearing. The application and staff report shall be available for public review ten (10) days prior to the scheduled public hearing.

Section 14.080. Notice of Public Hearing.

- 1) Notice for a quasi-judicial land use hearing for a zone change or permit or an appeal of a decision of the Planning Director or Planning Commission shall be provided to (where applicable):
 - a) the public via a legal notice published in a newspaper of general circulation in the City at least 10 days prior to the hearing,
 - b) the applicant (and/or appellant, if applicable),
 - c) participants in the hearing,
 - d) owners of record on the most recent property tax assessment roll of property within 250 feet of the property which is the subject of the notice, and

- e) public agency when applicable.
- 2) The notice shall:
- a) explain the nature of the application and the proposed use or uses which could or have been authorized;
 - b) list in general terms the applicable criteria from the ordinance and the plan that apply to the application at issue;
 - c) set forth the street address or other easily understood geographical reference to the subject property;
 - d) state the date, time and location of the hearing;
 - e) state that failure to raise an issue with sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal on that issue;
 - f) be mailed at least twenty (20) days before the first evidentiary hearing before the Planning Commission or Common Council, or upon appeal of any hearing;
 - g) include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 - h) state that a copy of the application, the documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 - i) state that a copy of the staff report will be available for inspection at least seven (7) days before the hearing at no cost and will be provided at reasonable cost;
 - j) include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- 3) Failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such a notice was sent.
- 4) For all quasi-judicial land use hearings, notice shall be published seven (7) and not more than twenty (20) days in advance.
- 5) The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
- 6) For each quasi-judicial land use hearing, an affidavit shall be completed representing that the required notice was provided to the appropriate individuals.

- 7) Any party who would have had a right to receive notice if a hearing had been scheduled or who is adversely affected or aggrieved by the decision may appeal a Hearings Officer's or Planning Director's decision. Under this section, such an appeal shall be to the Planning Commission and shall be de novo.

Section 14.090. Availability of Hearings Information.

- 1) The documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time the notice is provided as per Section 14.080.
- 2) Interested parties are, as required by ordinance or statute, entitled to an opportunity to be heard by a tribunal that is impartial, to have the proceedings recorded and to have a decision based on evidence in the whole record and defined by findings of fact.
- 3) No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.
- 4) No person shall speak without obtaining permission from the Hearings Officer.
- 5) No person shall testify without first receiving recognition from the Hearings Officer and stating his full name and residence address.
- 6) The Hearings Officer may require participants to sign a form and furnish their resident address prior to offering verbal testimony.
- 7) No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by the City staff shall be deemed relevant, material and competent unless objected to by any interested party with good cause and at the first available opportunity.
- 8) There shall be no audience demonstrations, such as applause, cheering, display or signs, or other conduct disruptive to the hearing. Such conduct may be cause for expulsion of those parties conducting the disruptive activity or immediate termination of the hearing by the Commission.
- 9) The Hearings Officer, Commission members and, with the approval of the Hearings Officer, City staff may question and cross-examine any person present who offers testimony in writing or orally.

Section 14.100. Hearings Procedure.

- 1) At the commencement of a hearing a statement shall be made to those in attendance that state:
 - a) a listing of the applicable substantive criteria;
 - b) that testimony and evidence must be directed toward the criteria described in (a) above or other criteria in the plan or land use regulation which the person believes to apply to the decision, and;
 - c) that failure to raise an issue with sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal on that issue;
 - d) that if a participant at the hearing so requests before the hearing concludes, the record shall be kept open for at least seven (7) days unless there is a continuance.
 - e) that any party shall be entitled to a continuance of the hearing if anyone submits documents or evidence in support of the application supplementing the documents or evidence submitted by the applicant. Such a continuance shall not be subject to the 120 day time limitation of ORS 227.178.
- 2) When the decision-making body reopens a record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence, testimony or criteria for decision-making.
- 3) For each hearing under this section, Findings of Fact shall be adopted by the decision-making body. In lieu of written Findings of Fact, the minutes of the hearing may be used.

Section 14.110. Order of Procedure.

- 1) The Hearings Officer, in conducting the hearing, shall:
 - a) Commence the hearing. Announce the nature and purpose of the hearing, summarize the rules for the conduct of the hearing.
 - b) Call for abstentions. Inquire of the Commission whether any member thereof wishes to abstain from participating in the hearing. Any Commission member then announcing his abstention shall identify the reasons for abstaining and shall not participate in discussion of the proposal (from the Commission Chair) or vote

on the proposal and shall step down from the Commission area.

c) Conflicts of Interest and Ex Parte Contacts.

- (1) A member of the Commission shall not participate in any proceedings, hearing or action as a member of the Commission in an action or hearing in which any of the following parties has a direct or substantial financial interest or when any of the following situations exist:
 - (a) The member or his spouse,
 - (b) brother, sister, child, parent, father-in-law, or mother-in-law,
 - (c) any business in which he is then serving or has served within the previous two years,
 - (d) any business with which he is negotiating for or has an arrangement or understanding concerning prospective partnership or employment,
 - (e) if the Commission member owns property within the notice area for that hearing, or
 - (f) for any other reason the Commission member has determined that he cannot participate in the hearing and decision in an impartial manner.
- (2) Abstaining or disqualified Commission members may represent their own selves, a client or any other member of the public at a hearing, provided they:
 - (a) abstain from the vote of the proposal,
 - (b) remove themselves from the Commission area and join the audience,
 - (c) make full disclosure of their status and position at the time of addressing the Commission.
- (3) Any actual or potential interest shall be disclosed at the meeting of the Commission where the action is being taken.
- (4) No decision or action of a Planning Commissioner or Common Council member shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision making body, if the member

of the decision making body receiving the contact:

- (a) places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
- (b) makes a public announcement during the hearing of the content of the ex parte contact and gives an opportunity to rebut the substance of the information.
- (5) A communication between City staff and the Planning Commission or Common Council is not to be considered an ex parte contact for the purposes of subsection (4) of this section.
- (6) No officer or employee of the City who has a financial or other private interest shall participate in discussion with or give an official opinion to the Commission on the proposal without first declaring for the record the nature and extent of such interest.
- d) Objections to jurisdiction or procedural challenges. Inquire of the audience whether there are any objections to the jurisdiction of the Commission to hear the matter and, if such objections are received, conduct such further inquiry as necessary to determine the question. The Hearings Officer shall terminate the hearing if his inquiry results in substantial evidence that the Commission lacks jurisdiction or the procedural requirements of the ordinance were not met. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the Commission.
- e) Reading of the staff report and hearings requirements. Summarize the nature of the proposal, explain any graphic or pictorial displays which are a part of the record, summarize the staff report and provide such other information as may be requested by the Commission. The Hearings Officer may direct staff to perform this duty.
- f) Proponent's case. Determine whether the proponent will conduct his case in person or by representative. The applicant (proponent) shall first be heard and persons in favor of the proponent's proposal shall next be heard.

- g) Cross-examination of proponents. Allow opponents, upon recognition by the Hearings Officer, to submit questions directly to the proponents. Proponents shall be given a reasonable time to respond solely to the questions.
- h) Opponent's case. Opponents shall be heard in the following order:
 - (1) Groups represented by counsel or a spokesman shall be allowed by the Hearings Officer to first proceed.
 - (2) Persons who received notice of the hearing or who were entitled to receive notice.
 - (3) Persons who did not receive notice and who were not entitled to notice.
- i) Cross-examination of opponents. Allow proponents, upon recognition of the Hearings Officer to submit questions to opponents who have testified. Opponents shall be given a reasonable time to respond solely to the questions.
- j) Public agencies. Invite representatives of any City, State Agency, Regional Authority or Municipal or Quasi-Municipal Corporation existing pursuant to law to next be heard.
- k) Rebuttal evidence. Allow first the proponent and then the opponents to offer rebuttal evidence and testimony.
- l) Close hearing and deliberation by Commission. The Hearings Officer shall close the hearing and the Commission shall deliberate the proposal. The Commission shall either make its decision and state its findings, which may incorporate findings proposed by the proponent, opponents, the staff, or may continue its deliberations to a subsequent meeting as aforesaid. The subsequent meeting shall be for the purpose of continued deliberation and/or adoption of Finding of Fact and shall not allow for additional submission of testimony except upon decision of the Commission to reopen the hearing.

Section 14.120. Official Notice.

- 1) The Commission may take official notice in the record of a hearing of any of the following:
 - a) All facts which are judicially noticeable; and

- b) The Charter, ordinances, resolutions, rules, regulations and official policies (if written) of the City of Bandon.
- 2) Matters officially noticed need not be established by evidence and may be considered by the Commission in the determination of the proposal.

Section 14.130. Challenge for Bias or Conflicts.

- 1) Any proponent or opponent of a proposal to be heard by the Commission may challenge the qualifications of any Commission member to participate in such hearing and decision. Such challenge must state facts in writing, by affidavit, that are relied upon by the submitting party relating to a Commission member's bias, prejudice, personal interest or other facts from which the party has concluded that the Commission member should not participate and could not make a decision in an impartial manner.
- a) Such written challenge must be delivered by personal service to the City and the Commission member whose qualifications are being challenged not less than 48 hours prior to the proceeding.
 - b) Such challenge shall be noted in the record.
 - c) The Commission member who is challenged may state on the record why he or she feels the challenge is wrong.

Section 14.140. Hearings Officer. The Hearings Officer shall have authority to:

- (1) rule on challenges to disqualify a Commission member,
- (2) regulate the course and decorum of the hearing,
- (3) dispose of procedural requests or similar matters,
- (4) rule on offers of proof and relevancy of evidence and testimony,
- (5) impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations, cross-examination of witnesses and rebuttal testimony, and
- (6) take other action authorized by the Council appropriate for conduct commensurate with the nature of the hearing.

Section 14.150 to 14.190. Reserved.

ARTICLE XV

Appeals

Section 15.000. Requirements and Procedures for Appeals.

- 1) An appeal of an administrative decision shall be made to the Planning Commission.
- 2) An appeal of a Planning Commission decision shall be made to the Common Council.
- 3) An appeal of a decision shall contain the following:
 - a) An identification of the decision sought to be reviewed, including the name, site, location information and the date of the decision.
 - b) A statement of the interest of the person seeking the review and that the individual was a party to the initial proceedings.
 - c) The specific grounds upon which the review and appeal are being based.
 - d) The criteria used in making the original determination.
- 4) Scope of Review. The reviewing body shall determine as a non public hearing item, that the scope of the review and appeal will be one of the following:
 - a) Restricted to the record of the decision being appealed;
 - b) Limited to the admission of additional evidence on such issues of additional evidence as the reviewing body determines necessary for a proper resolution of the matter;
 - c) A de novo hearing on the merits of the appeal.

Section 15.010. Review of records.

- 1) Unless otherwise provided for by the reviewing body, review of the decision on appeal

shall be confined to the record of the proceeding as specified in this section. The record shall include the following:

- a) A factual report prepared by the City Manager;
 - b) All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
 - c) The final order and findings of fact adopted in support of the decision being appealed;
 - d) The request for an appeal filed by the appellant;
 - e) The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.
- 2) All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issue(s) that are the subject of the review.
 - 3) The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.
 - 4) In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.
 - 5) The appellant shall bear the burden of proof.

Section 15.020. Appeals including additional evidence or de novo hearings.

- 1) The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:
 - a) The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or
 - b) A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and
 - c) The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time

of the previous review.

- 2) Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of public hearings.
- 3) All testimony, evidence and other material from the record of the previous considerations shall be included in the record of the review.

Section 15.030. Notice of Final Decision.

- 1) A written notice of the final decision of an appeal under these sections shall be mailed to all participants of the hearing and those parties in the notice area within seven (7) days of the decision. A participant in the hearing is one who submits written or oral testimony in the hearing record.
- 2) The notice of final decision shall contain:
 - (a) The name of the applicant
 - (b) A description of the decision and whether it was granted or denied, including any conditions placed on the approval
 - (c) The date of the final decision or the signing of findings of fact
- 3) A record shall be kept for one (1) year of the results of all hearings subject to these sections. This record shall be available to the public.

Section 15.040 to 15.090. Reserved.

ARTICLE XVI

Quorum, Severability, Repeal and Adoption

Section 16.000. Quorum.

- 1) A majority of the Commission shall constitute a quorum.
- 2) An abstaining or disqualified Commission member may be counted for the purpose of forming a quorum.

Section 16.010. Severability. In the event any section, paragraph or part of this ordinance be for any reason declared invalid or held unconstitutional by any Court of last resort, every other section, paragraph or part shall continue in full force and effect.

Section 16.020. Repeal. Ordinance No. 1313, entitled "AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR BANDON, OREGON; AND REPEALING ORDINANCE NO. 1291" as amended, is hereby repealed. Provided, however, that any proceedings instituted under the provisions of Ordinance 1313 shall be completed under the terms of that ordinance and the provisions of Ordinance 1313 shall apply thereto.

PASSED to Second Reading this 15th day of August, 1994.

ADOPTED by the Common Council and APPROVED by the Mayor of the City of Bandon this 15th day of August, 1994.

Judith A. Densmore, Mayor

Attest:

Denise M. Skillman, City Recorder

Typed from an original document: Marie Ducharme, 2005.