

## Title 17

### ZONING

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## Chapter 17.04

### INTRODUCTORY PROVISIONS

#### Sections:

- 17.04.010 Title.
- 17.04.020 Purposes.
- 17.04.040 Compliance with provisions required.

#### 17.04.010 Title.

This title shall be known as the "zoning ordinance" of the city of Bandon.

#### 17.04.020 Purposes.

The purposes of this title are:

- A. To implement the city's comprehensive plan;
- B. To comply with the provisions of state law and the Statewide Planning Goals.
- C. To encourage the efficient and appropriate use of land;
- D. To conserve and stabilize property values;
- E. To aid in the rendering of fire and police protection;
- F. To provide for adequate light and air;
- G. To avoid congestion;
- H. To encourage orderly growth of the city;
- I. To facilitate adequate provision of public facilities;
- J. To protect important natural resources, including open space, mineral and aggregate sources, energy sources, fish and wildlife resources, scenic views and sites, water areas, wetlands, and historical and archaeological sites;
- K. To protect and enhance the quality of air, land and water resources;
- L. To protect life and property from natural hazard;
- M. To provide adequate space for recreational opportunity;
- N. To promote the economic well-being of the city and to provide areas needed for economic development;
- O. To provide adequate space for housing;
- P. To reserve and protect areas needed for educational facilities;
- Q. To conserve energy;
- R. To provide for orderly and efficient growth of the city; and
- S. To promote the public health, safety, convenience and general welfare.

#### 17.04.040 Compliance with provisions required.

- A. No structure or lot shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this title.
- B. The planning commission may rule that a use not specifically listed in the allowed uses of a zone shall be included among the allowed uses if the use is of the general type and is similar to the allowed uses. However, this does not authorize the inclusion in a zone where it is not listed of a use specifically in another zone or which is of the same general type and is similar to a use specifically listed in another zone.
- C. Any new structure and addition to or replacement of existing structures are required to

be inspected during the building process to assure compliance with all development regulations. Satisfactory completion of three field inspections is required to assure compliance. The first inspection will determine compliance with the approved site plan. The second inspection shall occur after completion of framing the structure. This inspection will determine compliance with approved floor plans and elevation drawings. The final inspection shall occur upon completion of the structure. This inspection will determine compliance with approved plans for drainage, utility service, off-street parking, any required street improvements, and authorized land use.

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

- D. Time Limitation. A zoning compliance is valid for a period of one (1) year from the date of issuance. If the certificate of occupancy and/or letter of completion has not been issued within this period, the zoning compliance becomes null and void without further proceedings. The applicant may request one six (6) month extension prior to the expiration of the zoning compliance. The Planning Department may grant the extension for good cause as demonstrated by the applicant. Once a zoning compliance is determined to be null and void, an applicant must make a new application to the City, and is responsible for the payment of all applicable fees.
- E. Section 17.040(D) shall be implemented immediately and shall apply to all zoning compliance active on the effective date of adoption of this section.
- F. Notwithstanding subsection (D) above, the City Council may grant zoning compliance extensions beyond 18 months for extraordinary circumstances such as medical injuries or emergencies beyond the control of the applicant.

Chapter 17.08

ESTABLISHMENT OF ZONES

Sections:

17.08.010 Classification of zones.

17.08.020 Zoning map.

17.08.010 Classification of zones.

Classification of zones. For the purpose of this title, the city is divided into zones designated as follows:

Zone	Abbreviated
Residential 1	R-1
Residential 2	R-2
Controlled development 1	CD-1
Controlled development 2	CD-2
Controlled development residential 1	CD-R1
Controlled development residential 2	CD-R2
Old Town commercial	C-1
General commercial	C-2
Marine commercial	C-3
Light industrial	LI
Heavy industrial	HI
Public facilities and parks	PF
Water	W
Natural resource and open space	NR
Historic-cultural overlay	HC
Shoreland overlay	SO
Architectural review overlay	AR
Airport overlay	AO

17.08.020 Zoning map.

- A. The location and boundaries of the zones designated in Section 17.08.010 are established as shown on the map entitled "Zoning Map of the City of Bandon, Oregon," dated with the effective date of the ordinance codified in this title and signed by the mayor and city recorder, and hereafter referred to as the "zoning map."
- B. The zoning map is made a part of this title.

## Chapter 17.12

### RESIDENTIAL1 (R-1) ZONE

#### Sections:

- 17.12.010 Purpose.
- 17.12.020 Permitted uses.
- 17.12.030 Conditional uses.
- 17.12.040 Limitations on uses.
- 17.12.050 Signs.
- 17.12.060 Lot size.
- 17.12.070 Yards.
- 17.12.080 Height of building.
- 17.12.090 Lot coverage.

#### 17.12.010 Purpose.

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

#### 17.12.020 Permitted uses.

In the R-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling;
  - B. Two-family dwelling;
  - C. Manufactured dwellings as defined in Title 16
  - D. Residential care home;
  - E. Adult foster care home;
  - F. Public utilities, including service structures.
- (Editorially amended, 2003.)

#### 17.12.030 Conditional uses.

In the R-1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Boarding or rooming house;
- B. Multiple-family dwelling;
- C. Church;
- D. Community club or building;
- E. Schools, including nursery or day care center;
- F. Park and recreation facility;
- G. Governmental structure or use;
- H. Parking to serve a location or use in a different zone where the parking area borders the different zone;
- I. Nursing, convalescent or retirement home;
- J. Medical, dental or related office;
- K. Medical, dental or related clinic;
- L. Hospital;
- M. Drugstores, provided that they are primarily for the sale of drugs;
- N. Residential facility;
- O. Planned unit development (P.U.D.).

17.12.040 Limitations on uses.  
See Section 17.12.030.

- A. All homes in the R-1 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least six of the following design features (at least 3 of these features shall be integrated into a face of the dwelling):
1. Garage constructed with finish materials matching the residence;
  2. Hip Roof
  3. Roof with a pitch at or greater than 3/12;
  4. Hip Roof;
  5. Gables;
  6. Mullioned Windows
  7. Eaves with a minimum projection of six inches;
  8. Tile or architectural grade shingles;
  9. Dormers;
  10. Offsets on the building face or roof of at least twelve (12) inches;
  11. Cupolas;
  12. Covered porch - a minimum of 25 square feet;
  13. Recessed entry area a minimum of three feet
  14. Pillars or posts;
  15. Bay windows;
  16. Window shutters;
  17. Clerestory windows;
  18. Horizontal lap siding on 100% of the exterior, cedar shake or shingle or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.
- B. Vacation rental dwellings, bed and breakfasts, and bed and breakfast inns are specifically prohibited in the R-1 zone.

17.12.050 Signs.

See Chapter 17.90 Signs

17.12.060 Lot size.

In the R-1 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, lot area shall be five thousand four hundred (5,400) square feet; for a two-family dwelling, lot area shall be nine thousand (9,000) square feet; for a three-family dwelling, lot area shall be ten thousand five hundred (10,500) square feet; for additional units, lot area shall increase by one thousand (1,000) square feet per unit.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be at least ninety (90) feet.

17.12.070 Yards.

Except as provided in Section 17.104.060, in the R-1 zone yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.
- B. A side yard shall be at least five feet, and the total of both side yards shall be at least thirteen (13) feet, with the exception of corner lots whose side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.

17.12.080 Height of Buildings and Structures.

A. Except as otherwise permitted in 17.12.100 Exceptions to height limitations, or pursuant to 17.12.080.B (below), no portion of any building or structure shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."

B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.

1. Review Criteria

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

- a. The additional height shall not negatively impact the views from surrounding properties.
- b. The additional height shall not cut off sunlight onto surrounding properties.
- c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
- d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
- e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.

2. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for

limited land use decisions in Chapter 17.120.

17.12.090 Lot coverage.

In the R-1 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.12.100 Exceptions to height limitations

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding (70) feet may be allowed as a Conditional Use.



## Chapter 17.16

### RESIDENTIAL 2 (R-2) ZONE

#### Sections:

- 17.16.010 Purpose.
- 17.16.020 Permitted uses.
- 17.16.030 Conditional uses.
- 17.16.040 Limitations on uses.
- 17.16.050 Signs.
- 17.16.060 Lot size.
- 17.16.070 Yards.
- 17.16.080 Height of building.
- 17.16.090 Lot coverage.

#### 17.16.010 Purpose.

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

#### 17.16.020 Permitted uses.

In the R-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Mobile and manufactured homes as defined in Title 16;
- B. Single-family dwellings;
- C. Residential mobile and manufactured home parks that are in compliance with the state of Oregon building code's agency mobile or manufactured home park facility requirements;
- D. Two-family dwellings;
- E. Multiple-family dwelling;
- F. Residential care home;
- G. Adult foster care home;
- H. Public utilities, including service structures.  
(Editorially amended, 2003.)

#### 17.16.030 Conditional uses.

In the R-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Boarding or rooming house;
- B. Church;
- C. Community club or building;
- D. Schools, including nursery or day care centers;
- E. Park and recreation facility;
- F. Governmental structure or use;
- G. Parking to serve a location or use in a different zone where the parking area borders the different zone;
- H. Nursing, convalescent or retirement home;
- I. Medical, dental or related offices or clinics;
- J. Hospital;
- K. Drugstores, provided that they are primarily for the sale of drugs;

- L. Residential facility;
- M. Planned unit development (P.U.D.).

17.16.040 Limitations on uses.

- A. All homes in the R-2 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least six of the following design features (at least 3 of these features shall be integrated into a face of the dwelling):
  - 1. Garage constructed with finish materials matching the residence;
  - 2. Hip Roof
  - 3. Roof with a pitch at or greater than 3/12;
  - 4. Hip Roof;
  - 5. Gables;
  - 6. Mullioned Windows
  - 7. Eaves with a minimum projection of six inches;
  - 8. Tile or architectural grade shingles;
  - 9. Dormers;
  - 10. Offsets on the building face or roof of at least twelve (12) inches;
  - 11. Cupolas;
  - 12. Covered porch - a minimum of 25 square feet;
  - 13. Recessed entry area a minimum of three feet
  - 14. Pillars or posts;
  - 15. Bay windows;
  - 16. Window shutters;
  - 17. Clerestory windows;
  - 18. Horizontal lap siding on 100% of the exterior, cedar shake or shingle or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.
- B. Vacation rental dwellings, bed and breakfasts, and bed and breakfast inns are specifically prohibited in the R-2 zone.

17.16.050 Signs.

See Chapter 17.90 Signs

17.16.060 Lot size.

In the R-2 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, lot area shall be five thousand four hundred (5,400) square feet; for a two-family dwelling, lot area shall be nine thousand (9,000) square feet; for a three-family dwelling, lot area shall be ten thousand five hundred (10,500) square feet; for additional units, lot area shall increase by one thousand (1,000) square feet per unit.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be at least ninety (90) feet.

17.16.070 Yards.

Except as provided in Section 17.104.060, in the R-2 zone, yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.

- B. A side yard shall be at least five feet, and the total of both side yards shall be at least thirteen (13) feet, with the exception of corner lots whose side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.

17.16.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.16.100 Exceptions to height limitations, or pursuant to 17.16.080.B (below), no portion of any building or structure shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
  - 1. Review Criteria  
 In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.
    - a. The additional height shall not negatively impact the views from surrounding properties.
    - b. The additional height shall not cut off sunlight onto surrounding properties.
    - c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
    - d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
    - e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.
  - 2. Review Procedures and Public Notices  
 The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.16.090 Lot coverage.

In the R-2 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.16.100 Exceptions to height limitations

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to

seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use.

## Chapter 17.20

### CONTROLLED DEVELOPMENT 1 (CD-1) ZONE

#### Sections:

- 17.20.010 Purpose.
- 17.20.020 Permitted uses.
- 17.20.030 Conditional uses.
- 17.20.040 Limitations on use.
- 17.20.050 Signs.
- 17.20.060 Lot size.
- 17.20.070 Yards.
- 17.20.080 Lot coverage.
- 17.20.090 Height of structures.

#### 17.20.010 Purpose.

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

#### 17.20.020 Permitted uses.

In the CD-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling, or manufactured dwelling, as defined in Title 16;
- B. State parks, including outright rehabilitation, replacement, minor betterment and improvements which do not result in increased visitors;
- C. Residential care home;
- D. Adult foster care home;
- E. Public utilities, including service structures.  
(Editorially amended, 2003.)

#### 17.20.030 Conditional uses.

In the CD-1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (P.U.D.);
- C. Museums, tourist information centers, parks and recreational facilities;
- D. Gift, art, or handicraft store;
- E. Eating and drinking establishment;
- F. Motel, hotel;
- G. Bed and breakfast, bed and breakfast inn;
- H. Vacation rental dwellings;
- I. Residential uses incidental to other conditional or permitted uses;
- J. Governmental structure or use;
- K. Church.

17.20.040 Limitations on use.

- A. Drive-up uses are prohibited.
- B. All new uses or structures or major exterior alterations of existing structures in the CD-1 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the design and siting of new structure(s) and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).
  - 2. Siting of structures should minimize negative impact on the ocean views of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built in line with other existing structures and not extend farther out into those views.
  - 3. Metal-sided buildings are not permitted in the CD-1 zone.
- C. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
  - 1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description as defined by the city manager or designate of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - d. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.

- D. No structures shall be located on identified foredunes. Breaching of foredunes shall only be allowed on a temporary basis in a dire emergency and shall be followed immediately by replenishment of sand, structural or binding material and vegetation, to the height of the surrounding existing dune. It shall be the responsibility of the developer or the party responsible to rebuild any breach or reestablish any vegetation that is removed, displaced or damaged on any bluff, foredune, or in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such rebuilding or reestablishment of vegetation.
- E. Minor modifications to existing structures such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other provisions of this title.
- F. All homes in the CD-1 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features (at least four of these features required must be integrated on a face of the dwelling):
  1. Garage constructed with finish materials matching the residence;
  2. Hip Roof
  3. Roof with a pitch at or greater than 3/12;
  4. Hip Roof;
  5. Gables;
  6. Mullioned Windows
  7. Eaves with a minimum projection of six inches;
  8. Tile or architectural grade shingles;
  9. Dormers;
  10. Offsets on the building face or roof of at least twelve (12) inches;
  11. Cupolas;
  12. Covered porch - a minimum of 25 square feet;
  13. Recessed entry area a minimum of three feet
  14. Pillars or posts;
  15. Bay windows;
  16. Window shutters;
  17. Clerestory windows;
  18. Horizontal lap siding on 100% of the exterior, cedar shake or shingle or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.20.050 Signs.

See Chapter 17.90 Signs

17.20.060 Lot size.

In the CD-1 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single- family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be at least ninety (90) feet.

17.20.070 Yards.

Except as provided in Section 17.104.060, yards in the CD-1 zone shall be as follows:

- A. The front yard shall be a minimum of twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.
- E. A rear yard abutting Beach Loop Drive shall be a minimum of fifteen (15) feet.

17.20.080 Lot coverage.

In the CD-1 zone, buildings shall not occupy more than fifty (50) percent of the lot area. Total impervious surface shall not exceed 65%.

17.20.090 Height of Buildings and Structures.

In order to maximize the ocean view potential of lots in the CD-1 zone:

- A. West of Beach Loop Drive or north of Seventh Street SW, except as otherwise permitted in 17.20.100 Exceptions to height limitations, no portion of any building or structure shall exceed a height of twenty-four (24) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. East of Beach Loop Drive and south of Seventh Street SW, except as otherwise permitted in 17.20.100 Exceptions to height limitations, or pursuant to 17.20.090.B.1 (below), no portion of any building or structure shall exceed a height of twenty-eight (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
  - 1. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
    - a. Review Criteria
 

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the



applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

- (1) The additional height shall not negatively impact the views from surrounding properties.
- (2) The additional height shall not cut off sunlight onto surrounding properties.
- (3) The additional height shall not negatively impact the aesthetic character of the neighborhood.
- (4) All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
- (5) For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.

b. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.20.100 Exceptions to height limitations

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. On the east side of Beach Loop Drive and south of Seventh Street, private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use. Antennas on the west side of Beach Loop and north of Seventh Street shall be subject to the existing height limitations.

## Chapter 17.24

### CONTROLLED DEVELOPMENT 2 (CD-2) ZONE

#### Sections:

- 17.24.010 Purpose.
- 17.24.020 Permitted uses.
- 17.24.030 Conditional uses.
- 17.24.040 Limitations on use.
- 17.24.050 Signs.
- 17.24.060 Lot size.
- 17.24.070 Yards.
- 17.24.080 Height of structures.
- 17.24.090 Lot coverage.

#### 17.24.010 Purpose.

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

#### 17.24.020 Permitted uses.

In the CD-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwellings, or manufactured dwellings as defined in Title 16;
  - B. Residential care home;
  - C. Adult foster care home;
  - D. Public utilities, including service structures.
- (Editorially amended, 2003.)

#### 17.24.030 Conditional uses.

In the CD-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Museums, interpretive centers, marine-oriented parks, marine-oriented outdoor recreation facilities;
- C. Gift, art, specialty, or handicraft shop;
- D. Eating and drinking establishments;
- E. Bed and breakfast, bed and breakfast inn;
- F. Vacation rental dwellings;
- G. Planned unit development, including resorts, except mobile home, trailer or recreational vehicle;
- H. Residential facility.

#### 17.24.040 Limitations on use.

- A. Drive-up uses are prohibited.
- B. All new uses or structures or major exterior alterations of existing structures in the CD-2 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the design and siting of the

- structure(s) and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).
2. The use or structure must conform to this chapter.
  3. The exterior of all structures will utilize natural wood material and be of a rustic appearance in accordance with the purpose of the zone (Section 17.24.010).
  4. Metal-sided buildings are prohibited.
- C. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- D. No structures shall be located on identified foredunes. Breaching of foredunes shall only be allowed on a temporary basis in a dire emergency and shall be followed immediately by replenishment of sand, structural or binding material and vegetation, to the height of the surrounding existing dune. It shall be the responsibility of the developer or the party responsible to rebuild any breach or reestablish any vegetation that is removed, displaced or damaged on any bluff, foredune, or in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such rebuilding or reestablishment of vegetation.

- E. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.
- F. Recreational vehicles, trailer houses, boats eighteen (18) feet in length or greater, shall not be stored in a required front yard. For the purposes of this section, limitation on the storage of recreational vehicles shall apply only to recreational vehicles six feet six inches in height or greater.
- G. All homes in the CD-2 zone, including but not limited to conventionally constructed homes and manufactured homes, shall utilize at least eight of the following design features (at least 4 of the design features must be integrated on a face of the dwelling):
  - 1. Garage constructed with finish materials matching the residence;
  - 2. Hip Roof
  - 3. Roof with a pitch at or greater than 3/12;
  - 4. Hip Roof;
  - 5. Gables;
  - 6. Mullioned Windows
  - 7. Eaves with a minimum projection of six inches;
  - 8. Tile or architectural grade shingles;
  - 9. Dormers;
  - 10. Offsets on the building face or roof of at least twelve (12) inches;
  - 11. Cupolas;
  - 12. Covered porch - a minimum of 25 square feet;
  - 13. Recessed entry area a minimum of three feet
  - 14. Pillars or posts;
  - 15. Bay windows;
  - 16. Window shutters;
  - 17. Clerestory windows;
  - 18. Horizontal lap siding on 100% of the exterior, cedar shake or shingle or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.24.050 Signs.

See Chapter 17.90 Signs

17.24.060 Lot size.

In the CD-2 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Lot depth shall be ninety (90) feet.

17.24.070 Yards.

Except as provided in Section 17.104.060, in the CD-2 zone, yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.

- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet, except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.24.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.24.100 Exceptions to height limitations, or pursuant to 17.24.080.B (below), no portion of any building shall exceed a height of twenty-eighty (28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."
- B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.
  - 1. Review Criteria
 

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

    - a. The additional height shall not negatively impact the views from surrounding properties.
    - b. The additional height shall not cut off sunlight onto surrounding properties.
    - c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
    - d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
    - e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.
  - 2. Review Procedures and Public Notices
 

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.24.090 Lot coverage.

In the CD-2 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.24.100 Exceptions to building height limitations.

- A. Chimneys, provided that they do not extend more than five feet above the highest point

of the proposed structure.

- B. Private, non-commercial antennas or HAM radio antennas and towers up to twenty-eight (28) feet in height, may be allowed as a Conditional Use, provided that no commercial equipment is located on or near such antennas.

17.24.110 Fill

- A. Except as otherwise specifically permitted, no fill or other means shall be used to elevate any land within so as to remove it from the floodplain for purposes of development, construction, or improvement and/or to remove it from being subject to any regulations applicable to land within a floodplain.

## Chapter 17.28

### CONTROLLED DEVELOPMENT 3 (CD-3) ZONE

#### Sections:

- 17.28.010 Purpose.
- 17.28.020 Permitted uses.
- 17.28.030 Conditional uses.
- 17.28.040 Limitations on use.
- 17.28.050 Signs.
- 17.28.060 Lot size.
- 17.28.070 Yards.
- 17.28.080 Height of structures.
- 17.28.090 Lot coverage.

#### 17.28.010 Purpose.

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

#### 17.28.020 Permitted uses.

In the CD-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling, or manufactured dwellings as defined in Title 16;
- B. Adult foster care home;
- C. Public utilities, including service structures.  
(Editorially amended, 2003.)

#### 17.28.030 Conditional uses.

In the CD-3 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (PUD), including multifamily dwellings, but excluding individual mobile homes, trailers, recreational vehicles or parks thereof;
- C. Gift, art, specialty, or handicraft shop;
- D. Eating and drinking establishments;
- E. Bed and breakfast, bed and breakfast inn.

#### 17.28.040 Limitations on use.

- A. Drive-up uses are prohibited.
- B. All new uses or structures or major exterior alterations of existing structures in the CD-3 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the design and siting of the structure(s) and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see 17.120).

2. The use or structure must conform to this chapter.
  3. The design of all structures, and materials selected for their exterior surfaces, will utilize scale, color and materials that will enhance and promulgate the small town/village idiom currently found in the adjacent CD-2 and C-3 zones.
  4. Prefabricated or sheet metal-sided buildings are prohibited.
- C. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- D. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other provisions of this title.
- E. Development must acknowledge and accommodate the Port of Bandon's Riverwalk Master Plan.
- F. All homes in the CD-3 zone, including conventionally constructed and manufactured homes, shall utilize at least eight of the following design features (at least 4 of the design features required must be integrated on a face of the dwelling):
1. Garage constructed with finish materials matching the residence;
  2. Hip Roof
  3. Roof with a pitch at or greater than 3/12;



4. Hip Roof;
5. Gables;
6. Mullioned Windows
7. Eaves with a minimum projection of six inches;
8. Tile or architectural grade shingles;
9. Dormers;
10. Offsets on the building face or roof of at least twelve (12) inches;
11. Cupolas;
12. Covered porch - a minimum of 25 square feet;
13. Recessed entry area a minimum of three feet
14. Pillars or posts;
15. Bay windows;
16. Window shutters;
17. Clerestory windows;
18. Horizontal lap siding on 100% of the exterior, cedar shake or shingle or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.28.050 Signs.

See Chapter 17.90 Signs

17.28.060 Lot size.

In the CD-3 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet in area. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet in area. Lot requirements for multifamily dwellings shall be such that a maximum density of seventeen (17) units per net acre is not exceeded.
- B. Lots shall have a minimum of forty (40) feet of physically accessible street frontage.
- C. Minimum lot depth shall be ninety (90) feet.)

17.28.070 Yards.

Except as provided in Section 17.104.060, in the CD-3 zone, yards shall be as follows:

- A. The front yard shall be at least twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.28.080 Height of Buildings and Structures.

- A. Except as otherwise permitted in 17.28.100 Exceptions to height limitations, or pursuant to 17.28.080.B (below), no portion of any building shall exceed a height of twenty-eighty

(28) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."

B. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.

1. Review Criteria

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

- a. The additional height shall not negatively impact the views from surrounding properties.
- b. The additional height shall not cut off sunlight onto surrounding properties.
- c. The additional height shall not negatively impact the aesthetic character of the neighborhood.
- d. All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.
- e. For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.

2. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120.

17.28.090 Lot coverage.

In the CD-3 zone, buildings shall not occupy more than fifty (50) percent of the lot area.

17.28.100 Exceptions to building height limitations.

A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.

## Chapter 17.32

### CONTROLLED DEVELOPMENT RESIDENTIAL 1 (CD-R1) ZONE

#### Sections:

- 17.32.010 Purpose.
- 17.32.020 Permitted uses.
- 17.32.030 Conditional uses.
- 17.32.040 Limitations on use.
- 17.32.050 Signs.
- 17.32.060 Lot size.
- 17.32.070 Yards.
- 17.32.080 Lot coverage.
- 17.32.090 Height of structures.

#### 17.32.010 Purpose.

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

#### 17.32.020 Permitted uses.

In the CD-R1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwellings, or manufactured dwellings as defined in Title 16;
- B. Residential care home;
- C. Adult foster care home;
- D. Public utilities, including service structures.  
(Editorially amended, 2003.)

#### 17.32.030 Conditional uses.

In the CD-R1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (P.U.D.);
- C. Governmental structure or use;
- D. Health care service facilities, including office;
- E. Nursing home;
- F. Residential facility.

#### 17.32.040 Limitations on use.

- A. All new uses or structures or exterior alterations of existing structures in the CD-R1 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the siting and design of the structure and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).

2. Siting of structures should minimize negative impacts on the views of the ocean or river of existing structures on abutting lots. Protection of views from vacant building sites should also be taken into consideration. Where topography permits, new structures should be built in line with other existing structures and not extend farther out into those view-scapes.
- B. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any part of the subject lot is in an area designated as a moderate or severe hazard area on the Bandon Bluff Inventory Natural Hazards Map or if any geologic hazard is suspected, the planning commission shall require a report to be supplied by the developer which satisfactorily evaluates the degree of hazard present and recommends appropriate precautions to avoid endangering life and property and minimize erosion. The burden of proof is on the landowner to show that it is safe to build.
1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- C. It shall be the responsibility of the developer to reestablish any vegetation that is removed, displaced or damaged on or near any bluff area in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such reestablishment of vegetation.
- D. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences, and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other ordinance provisions.
- E. Metal-sided buildings are prohibited in the CD-R1 zone.
- F. All homes in the CD-R1 zone, including but not limited to conventionally constructed

homes and manufactured homes, shall utilize at least eight of the following design features (at least 4 of the design features required must be integrated on a face of the dwelling):

1. Garage or constructed with finish materials matching the residence;
2. Roof with a pitch at or greater than 3/12;
3. Hip Roof;
4. Gables;
5. Mullioned windows;
6. Eaves with a minimum projection of twelve inches;
7. Tile or architectural grade shingles;
8. Dormers;
9. Offsets in the building face of at least two feet;
10. Cupolas;
11. Covered porch - a minimum of 25 square feet;
12. Recessed entry area a minimum of three feet;
13. Pillars or posts - decorative in nature;
14. Bay windows;
15. Window shutters;
16. Clerestory windows;
17. Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.32.050 Signs.

See Chapter 17.90 Signs

17.32.060 Lot size.

In the CD-R1 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet.
- B. Lots shall have a minimum of forty (40) feet of street frontage. This frontage shall be physically accessible.
- C. Lot depth shall be at least ninety (90) feet.

17.32.070 Yards.

Except as provided in Section 17.104.060, yards in the CD-R1 zone shall be as follows:

- A. The front yard shall be a minimum of twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet, except that in such a required rear yard, storage structures (less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a

residential use, that yard shall be a minimum of fifteen (15) feet.

17.32.080 Lot coverage.

In the CD-R1 zone buildings shall not occupy more than fifty (50) percent of the lot area.

17.32.090 Height of Buildings and Structures.

A. In order to maximize the ocean and river view potential of lots in the CD-R1 zone, except as otherwise permitted in 17.32.100 Exceptions to height limitations, or pursuant to 17.32.090.A.1 (below), no portion of any building shall exceed the following heights, measured as provided in 16.42.010 Definitions, "Height of building or structure:"

1. Twenty-eight (28) feet for Lots 5 thru 8 Block 5, and Lots 5 thru 8 Block 4, all in the Averill Addition, located on Map 28-15-25 AD.

a. With the specific approval of the Planning Commission, a building or structure may exceed a height of twenty-eight (28) feet, up to a maximum height of thirty-five (35) feet.

(1) Review Criteria

In deciding whether to approve or deny a request for the additional height, the Planning Commission shall consider and require conformance with the following review criteria. It shall be the applicant's responsibility to provide sufficiently detailed plans, data, and all other information necessary for the Planning Commission to determine whether the proposed additional height complies with the applicable review criteria.

(2) The additional height shall not negatively impact the views from surrounding properties.

(3) The additional height shall not cut off sunlight onto surrounding properties.

(4) The additional height shall not negatively impact the aesthetic character of the neighborhood.

(5) All portions of any roofs above 28 ft. shall be sloped a minimum of 3:12, and must slope down and away from the highest point of the structure.

(6) For each one (1) foot, or portion thereof, that the highest point of the structure exceeds twenty-eight (28) feet, the minimum required front, side, and rear setbacks, as defined in 16.42.010 Definitions, shall each be increased by one (1) foot.

b. Review Procedures and Public Notices

The review and approval of requests for additional height as provided herein shall be considered limited land use decisions, and shall be subject to the application, review, and public notice procedures as specified for limited land use decisions in Chapter 17.120

B. Twenty-four (24) feet for all other lots.

## Chapter 17.36

### CONTROLLED DEVELOPMENT RESIDENTIAL 2 (CD-R2) ZONE

#### Sections:

- 17.36.010 Purpose.
- 17.36.020 Permitted uses.
- 17.36.030 Conditional uses.
- 17.36.040 Limitations on use.
- 17.36.050 Signs.
- 17.36.060 Lot size.
- 17.36.070 Yards.
- 17.36.080 Lot coverage.
- 17.36.090 Height of structures.

#### 17.36.010 Purpose.

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

#### 17.36.020 Permitted uses.

In the CD-R2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Single-family dwelling, or manufactured dwellings as defined in Title 16;
- B. Residential care home;
- C. Public utilities, including service structures.

#### 17.36.030 Conditional uses.

In the CD-R2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Duplex;
- B. Planned unit development (P.U.D.);
- C. Governmental structure or use.

#### 17.36.040 Limitations on use.

- A. All new uses or structures or exterior alterations of existing structures in the CD-R2 zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a plan review in public session regarding the siting and design of the structure and all other requirements of this title. The approval or denial of a proposed land use resulting from this review will occur as a limited land use decision and shall require notice to property owners in the notice area (see Section 17.120.070).
  - 2. Siting of structures should minimize negative impacts on the views of the ocean or river of existing structures on abutting lots. Protection of views from vacant buildingsites should also be taken into consideration. Where topography permits, new structures should be built in line with other existing structures and not extend farther out into those view-scapes.
- B. Plans shall be reviewed to assess the possible presence of any geologic hazard. If any

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

1. The following identifies the reports which may be required:
    - a. Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading, design criteria for corrective measures, and options and recommendations covering the carrying capabilities of the sites to be developed in a manner imposing the minimum variance from the natural conditions. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
    - b. Geology Report. This report shall include an adequate description, as defined by the city manager or designate, of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions in the proposed development, and opinions and recommendations as to the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional geologist currently registered in the state of Oregon.
    - c. Hydrology Report. This report shall include an adequate description, as defined by the city manager or designate, of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and options and recommendations covering the carrying capabilities of the sites to be developed. The investigation and report shall be prepared by a professional civil engineer currently registered in the state of Oregon.
  2. The planning commission may waive any of these reports if it decides that they are irrelevant to the site.
- C. It shall be the responsibility of the developer to reestablish any vegetation that is removed, displaced or damaged on or near any bluff area in construction or site preparation. Such reestablishment shall begin as soon as possible after the aforementioned activity is complete. If the reestablishment is not started immediately, the city manager or designate shall require a bond in a sufficient amount to cover the costs of such reestablishment of vegetation.
- D. Minor modifications to existing structures, such as entryways, decks, porches, windows, fences, and changes due to normal maintenance or emergency repairs, may be administratively approved provided the modifications do not occur in a hazard area, do not impact view from adjoining areas and are consistent with all other provisions of this title.
- E. Metal-sided buildings are prohibited in the CD-R2 zone.
- F. All homes in the CD-R2 zone, including but not limited to conventionally constructed homes and manufactured homes shall utilize at least eight of the following design features (at least 4 design features required must be integrated on a face of the dwelling)
1. Garage or constructed with finish materials matching the residence;
  2. Roof with a pitch at or greater than 3/12;
  3. Hip Roof;
  4. Gables;
  5. Mullioned windows;
  6. Eaves with a minimum projection of twelve inches;



7. Tile or architectural grade shingles;
8. Dormers;
9. Offsets on the building face of at least two feet;
10. Cupolas
11. Covered porch - a minimum of 25 square feet;
12. Recessed entry area a minimum of three feet;
13. Pillars or posts - decorative in nature;
14. Bay windows;
15. Window shutters;
16. Clerestory windows;
17. Horizontal lap siding on 100% of the exterior, cedar shake or shingle siding on 100% of the exterior, or combination of cedar shake or shingle siding or lap siding with stone.

17.36.050 Signs.

See Chapter 17.90 Signs

17.36.060 Lot size.

In the CD-R2 zone, except as provided in Section 17.104.050, minimum lot size shall be as follows:

- A. For a single-family dwelling, a lot shall be a minimum of five thousand four hundred (5,400) square feet. For a duplex, a lot shall be a minimum of nine thousand (9,000) square feet.
- B. Lots shall have a minimum of forty (40) feet of street frontage. This frontage shall be physically accessible.
- C. Lot depth shall be at least ninety (90) feet.

17.36.070 Yards.

Except as provided in Section 17.104.060, yards in the CD-R2 zone shall be as follows:

- A. The front yard shall be a minimum of twenty (20) feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yards shall be a minimum of thirteen (13) feet, except that for corner lots, a side yard abutting a street shall be at least fifteen (15) feet.
- C. The rear yard shall be at least ten (10) feet except that in such a required rear yard, storage structures ( less than fifty (50) square feet), and other non-habitable structures may be built within five feet of the rear property line, provided that they are detached from the residence and the side yard setbacks are maintained. Such structures shall not be used as or converted for habitation, shall not be connected to any sewer system and shall not exceed sixteen (16) feet in height.
- D. Where a side yard of a new commercial structure or bed and breakfast inn abuts a residential use, that yard shall be a minimum of fifteen (15) feet.

17.36.080 Lot coverage.

In the CD-R2 zone buildings shall not occupy more than fifty (50) percent of the lot area.

17.36.090 Height of Buildings and Structures.

In order to maximize the ocean and river view potential of lots in the CD-R2 zone, except as otherwise permitted in 17.36.100 Exceptions to height limitations, no portion of any building shall exceed the twenty-four (24) feet, measured as provided in 16.42.010 Definitions, "Height of building or structure."

17.36.100 Exceptions to height limitations.

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communication equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use.

## Chapter 17.40

### OLD TOWN COMMERCIAL (C-1) ZONE

#### Sections:

17.40.010	Purpose.
17.40.020	Permitted uses.
17.40.030	Conditional uses.
17.40.040	Limitations on uses.
17.40.050	Signs.
17.40.060	Lot size.
17.40.070	Yards.
17.40.080	Height of structures.
17.40.090	Lot coverage.
17.40.100	Outside sales area.

#### 17.40.010 Purpose.

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

#### 17.40.020 Permitted uses.

In the C-1 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Museums, tourist information centers, and public parks;
- B. Gift, art and handicraft store;
- C. Eating and drinking establishments;
- D. Publicly owned facilities and services, and public utilities;
- E. Gourmet or specialty foods or wine shop;
- F. Clothing store;
- G. Business, governmental or professional offices;
- H. Barber shop or beauty shop;
- I. Apartments, provided that they are an accessory use incidental to a listed permitted or conditional use in the building;
- J. Hardware store, florist shop, or specialty store.

#### 17.40.030 Conditional uses.

In the C-1 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Self-service laundry;
- B. Recreational facilities, including concert halls, theaters and convention centers;
- C. Hotel, motel;
- D. Bed and breakfast or bed and breakfast inn.

#### 17.40.040 Limitations on uses.

In the C-1 zone, the following conditions and limitations shall apply:

- A. Development activity in the Old Town area is subject to the architectural review standards as provided in Section 17.84.010.
- B. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.

- C. The use shall not be objectionable because of odor, dust, fumes, smoke, noise, glare, or the effects of vehicular traffic.
- D. Drive-up uses are prohibited.

17.40.050 Signs.

See Chapter 17.90 Signs

17.40.060 Lot size.

In the C-1 zone, lot size shall be as necessary to comply with Section 17.40.090.

17.40.070 Yards.

Except as provided in Section 17.104.060, in the C-1 zone minimum yard size shall be as follows:

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

17.40.080 Height of structures.

In the C-1 zone, the permitted height limit shall be twenty-eight (28) feet, except that heights above twenty-eight (28) feet but not exceeding thirty-five (35) feet shall require a conditional use permit.

17.40.090 Lot coverage.

In the C-1 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.40.100 Outside sales area.

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

## Chapter 17.44

### GENERAL COMMERCIAL (C-2) ZONE

#### Sections:

17.44.010	Purpose.
17.44.020	Permitted uses.
17.44.030	Conditional uses.
17.44.040	Limitations on uses.
17.44.050	Signs.
17.44.060	Lot size.
17.44.070	Yards.
17.44.080	Height of building.
17.44.090	Lot coverage.
17.44.100	Outside sales area.

#### 17.44.010 Purpose.

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

#### 17.44.020 Permitted uses.

In the C-2 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store;
- B. Business, governmental or professional office, including real estate;
- C. Personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service), and dry cleaning shop;
- D. Manufacturing, processing, repairing or storage auxiliary to or incidental to a commercial permitted use, but not occupying more than fifty (50) percent of the floor space of the establishment;
- E. Mortuary or funeral home;
- F. Eating and drinking establishments;
- G. Specialty or art shop or store;
- H. Grocery or food store;
- I. Automobile repair and sales and service;
- J. Sales, service or repair of machinery, trailers, mobile home, farm equipment, marine equipment;
- K. Building materials sales or services;
- L. Hotel or motel;
- M. Plumbing, electrical, paint or carpentry storage, sales or contracting;
- N. Indoor recreational establishments;
- O. Medical, dental or related office;
- P. Medical, dental or related clinic;
- Q. Public utilities, including service structures.

17.44.30 Conditional uses.

In the C-2 zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Drive-up uses, in accordance with Section 17.92;
- B. Museums, tourist information centers, parks and recreational facilities;
- C. Food or dairy products processing;
- D. Single-family, two-family, or multiple housing, including mobile or manufactured home;
- E. Recreational vehicle park, overnight trailer parking;
- F. Public utility or services building;
- G. Residential care home or facility;
- H. Governmental buildings or uses;
- I. Churches;
- J. Any fuel dispensing or fuel storage facilities.

17.44.040 Limitations on uses.

In the C-2 zone, the following conditions and limitations shall apply:

- A. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.
- B. The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- C. Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 17.92.

17.44.050 Signs.

See Chapter 17.90 Signs

17.44.060 Lot size.

In the C-2 zone, lot size shall have no requirements.

17.44.070 Yards.

Except as provided in Section 17.104.060, in the C-2 zone minimum yards shall be as follows:

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

17.44.080 Height of building.

In the C-2 zone, no building shall exceed a height of forty-five (45) feet.

17.44.090 Lot coverage.

In the C-2 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.44.100 Outside sales area.

In the C-2 zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

17.44.110 Exceptions to height limitations.

- A. Chimneys, provided that they do not extend more than five feet above the highest point of the proposed structure.
- B. Private, non-commercial antennas or HAM radio antennas and towers up to seventy (70) feet in height, provided that no commercial communications equipment is located on or near such antennas. Such antennas exceeding seventy (70) feet may be allowed as a Conditional Use.

## Chapter 17.48

### MARINE COMMERCIAL (C-3) ZONE

#### Sections:

- 17.48.010 Purpose.
- 17.48.020 Permitted uses.
- 17.48.030 Conditional uses.
- 17.48.040 Limitations on uses.
- 17.48.050 Signs.
- 17.48.060 Lot size.
- 17.48.070 Yards.
- 17.48.080 Height of building.
- 17.48.090 Lot coverage.
- 17.48.100 Outside sales area.

#### 17.48.010 Purpose.

The purpose of the C-3 zone is to provide areas suitable for uses which depend upon, or are benefitted by, a waterfront location, and to retain adequate areas for these uses.

#### 17.48.020 Permitted uses.

In the C-3 zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Boat basins;
- B. Piers, docks and bulkheads;
- C. Seafood processing, storage and sales;
- D. Marinas and boat services;
- E. Boat storage, manufacturing, maintenance, repair and moorage;
- F. Fishing supply sales, manufacturing and storage;
- G. Dredging, filling and channel maintenance;
- H. Governmental services and offices which relate to marine activities;
- I. Aquaculture and accessory facilities;
- J. Public utilities, including service structures.

#### 17.48.030 Conditional uses.

In the C-3 zone, the following uses and their accessory uses may be allowed when in accordance with Chapter 17.92 and when it is found that the proposed use would be benefitted by a waterfront location:

- A. Eating and drinking establishments;
- B. Gift, art, craft, novelty or specialty shops, including the manufacture of such products;
- C. Governmental building or use;
- D. Public utility or service building;
- E. Park or recreation facility;
- F. Business or professional offices;
- G. Single-family dwellings and other dwelling units intended for single-family occupancy, provided they are in a non-ESWD (especially water-dependent) area;
- H. Vacation rental dwelling.

#### 17.48.040 Limitations on uses.

In the C-3 zone, the following conditions and limitations shall apply:

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



width.

- J. The use shall not be objectionable because of odor, dust, smoke, fumes, noise, glare or the effects of vehicular traffic.
- K. Limitations on use may be waived as a conditional use, subject to the provisions of Chapter 17.92.
- L. Drive-up uses are prohibited.
- M. The planning commission may establish a maximum percentage of a land parcel or a building devoted to one or more conditional uses to ensure that the purpose of this zone is achieved.

17.48.050 Signs.

See Chapter 17.90 Signs

17.48.060 Lot size.

In the C-3 zone, lot size shall have no requirements.

17.48.070 Yards.

Except as provided in Section 17.104.060, in the C-3 zone minimum yards shall be as follows:

- A. In the event of a common property line, a side yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.
- B. The rear yard shall meet the same requirements as a side yard.
- C. On the High Dock, structures exceeding five (5) feet in height shall be separated horizontally from each other by a minimum of fifteen (15) feet.

17.48.080 Height of building.

In the C-3 zone, no building containing a permitted use shall exceed a height of twenty-eight (28) feet, and no building containing a conditional use shall exceed a height of twenty (20) feet.

17.48.090 Lot coverage.

In the C-3 zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.48.100 Outside sales area.

In the C-3 zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

## Chapter 17.52

### LIGHT INDUSTRIAL ZONE (LI)

#### Sections:

17.52.010	Purpose.
17.52.020	Permitted uses.
17.52.030	Conditional uses.
17.52.040	Limitations on uses.
17.52.050	Signs.
17.52.060	Lot size.
17.52.070	Yards.
17.52.080	Height of building.
17.52.090	Lot coverage.
17.52.100	Outside sales area.

#### 17.52.010 Purpose.

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

#### 17.52.020 Permitted uses.

In the LI zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Manufacturing, processing and fabricating which is conducted solely in enclosed buildings which will not cause or result in:
  - 1. Dissemination of noise, vibration, odor, dust, smoke, gas or fumes beyond the boundaries of the building,
  - 2. Hazard of fire or explosion, or other physical hazard,
  - 3. Radiation or interference with radio or television reception in adjacent areas,
  - 4. Excessive traffic either in number or size of vehicles through any adjacent residential zone;
- B. Dairy product or cranberry processing or storage;
- C. Warehousing;
- D. Public utilities, including service structures.

#### 17.52.030 Conditional uses.

In the LI zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this ordinance:

- A. Single- or two-family dwelling, including mobile or manufactured homes;
- B. Public utility or service building;
- C. Government building or use;
- D. Other manufacturing or processing activities;
- E. Retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store;
- F. Business or professional office, including real estate.
- G. Personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service) or dry cleaning shop;
- H. Mortuary or funeral home;
- I. Eating and drinking establishment;
- J. Drive-up uses, in accordance with Section 17.92.090(I);
- K. Specialty or art shop or store;

- L. Grocery store;
- M. Automobile services, repair and sale;
- N. Sales, service or repair of machinery, trailers, mobile and manufactured homes, farm and marine equipment;
- O. Building materials sales and services;
- P. Hotels and motels;
- Q. Plumbing, electrical, painting or carpentry storage, sales or contracting;
- R. Indoor recreational establishment. (Ord. 1336 § 4.620, 1994)

17.52.040 Limitations on uses.

- A. All new uses or structures or exterior alterations of existing structures in the LI zone shall comply with the following:
  - 1. The developer shall be required to gain approval from the planning commission during a land use review in public session regarding all requirements of this title;
  - 2. Comprehensive plan.
- B. The dedication of additional street width may be required when an officially adopted street plan or the nature of the proposed development indicates the need for additional width.

17.52.050 Signs.

See Chapter 17.90 Signs

17.52.060 Lot size.

In the LI zone, lot size shall have no requirements.

17.52.070 Yards.

In an LI zone, a side or rear yard abutting a residential zone shall be at least twenty (20) feet.

17.52.080 Height of building.

In the LI zone, no structure within one hundred fifty (150) feet of a residential zone shall exceed a height of forth-five (45) feet. (Editorially corrected from Ord. 1313)

17.52.090 Lot coverage.

In the LI zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.52.100 Outside sales area.

In the LI zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

## Chapter 17.54

### WOOLEN MILL OVERLAY ZONE (WM)

#### Sections

17.54.010	Purpose
17.54.020	Compliance
17.54.030	Applicability
17.54.040	Permitted uses
17.54.050	Conditional uses
17.54.060	Dimensional standards
17.54.070	Design standards
17.54.080	Additional standards

#### 17.54.010 Purpose.

The purpose of the Woolen Mill (WM) Overlay Zone is to allow for a mix of uses and activities, subject to special development standards, consistent with the policy direction provided in the Woolen Mill Addition Refinement Plan. The development standards are intended to promote a walkable, storefront character by orienting (placing or locating) buildings toward streets.

#### 17.54.020 Compliance.

The provisions of this overlay zone supplement and supercede the provisions of the underlying Light Industrial zone.

- A. In cases of conflict, the provisions of the WM overlay zone shall prevail over the provisions of the underlying Light Industrial (LI) zone.
- B. Existing uses may continue or expand on the parcel or lot where the use existed at the time of adoption of this section, subject to the provisions of the underlying LI zone.
- C. Expansion of existing uses on to a new lot or parcel shall be subject to the provisions of the WM Overlay Zone.

#### 17.54.030 Applicability.

The WM Overlay Zone applies to the Light Industrial area referred to as the Employment Area the Woolen Mill Addition Refinement Plan, which is generally located between 3<sup>rd</sup> and 5<sup>th</sup> Streets, and Elmira and Grand Avenues, as shown on the attached map. There are two sub-districts:

- A. The Live/Work/Sell (LWS) subdistrict is located on the west side of Fillmore Avenue between 3<sup>rd</sup> and 5<sup>th</sup> Streets, and the east side of Fillmore Avenue to Grand Avenue between 3<sup>rd</sup> and 4<sup>th</sup> Streets.
- B. The Employment subdistrict is located south of the LWS subdistrict, between Fillmore and Grand Avenues and 4<sup>th</sup> and 5<sup>th</sup> Streets.

#### 17.54.040 Permitted Uses.

The following land uses are permitted in the Woolen Mill Overlay Zone, subject to the provisions of this chapter.

- A. Low impact industrial and assembly uses are permitted as primary uses within the Employment subdistrict, and as accessory uses (occupying no more than 50% of the ground floor area) within the LWS subdistrict. Such uses include but are not limited to the manufacture, assembly, and/or processing of: small-scale crafts, electronic equipment, bakery and food goods, furniture, and similar goods. The use shall not generate odor, dust, fumes, smoke, noise, or glare that adversely impacts adjacent residential uses.

- B. Heavy commercial (industrial service) uses are permitted as primary uses in the Employment subdistrict provided they are enclosed within a building, but are not permitted in the LWS subdistrict. Such uses include but are not limited to automobile repair, sales and service; heavy equipment sales, service or repair; building materials sales or services; construction contracting; and plumbing, electrical, paint or carpentry storage, sales or contracting.
- C. New residential uses are permitted only above retail or employment uses in the LWS subdistrict, but are not permitted in the Employment subdistrict.
- D. Commercial and service uses are permitted as primary uses in the LWS subdistrict, and as accessory uses (occupying not more than 35% of the total floor area) in the Employment subdistrict. Commercial and service uses include but are not limited to hotels and motels; retail trade establishments such as food, drug, hardware, furniture, florist, appliance, gift, clothing, novelty, department or general merchandise store; business, governmental or professional office, including financial, real estate, medical, or dental; personal and business services such as office supplies, barber, tailoring, printing, laundry (including self-service), or dry cleaning; eating and drinking establishments; specialty or art shop or store; grocery, deli or food store; or indoor recreational establishments.
- E. Public and institutional uses are permitted as primary uses in the LWS subdistrict but are not permitted in the Employment district. Such uses includes but are not limited to churches and places of worship; libraries, museums, and community centers; public parks and recreational facilities; and schools. Public parking lots are permitted as a primary use in the LWS subdistrict but must be accessory to a primary industrial use in the Employment subdistrict. Accessory public and private utilities are permitted in both subdistricts, except as limited under Section 6.640 below.

17.54.050 Conditional Uses.

The following land uses are permitted in the Woolen Mill Overlay Zone, subject to the provisions of this chapter and Chapter 17.92.

- A. Residential care homes, nursing, convalescent and retirement homes.
- B. Fuel dispensing and storage facilities.

17.54.060 Dimensional Standards.

The following dimensional standards apply within the Woolen Mill Overlay Zone.

- A. Front Yard Setbacks.
  - 1. Minimum Setback: There is no minimum front yard setback requirement.
  - 2. Maximum Setback: The maximum allowable front yard setback is 5 feet. This standard is met when at least 75 percent of the front building elevation is placed no more than 5 feet back from the front property line. The setback standard may be increased when the setback area is used as public space with pedestrian amenities, such as extra-wide sidewalks, plazas, pocket parks, outdoor dining area.
  - 3. Parking is not allowed in the front yard setback.
- B. Rear Yard Setbacks. The minimum rear yard setback requirement for structures is 5 feet.
- C. Side Yard Setbacks. There is no minimum side yard setback requirement, except that buildings shall conform to vision clearance standards and applicable fire and building codes for attached structures, fire walls, and related requirements.
- D. Yard Setbacks Abutting a Residential Zone. A side or rear yard abutting a residential zone shall be at least fifteen (15) feet plus one foot for each two feet by which the building exceeds twenty-eight (28) feet.
- E. Setback Exceptions. Eaves, chimneys, bay windows, overhangs, cornices, awnings,

canopies, porches, decks and similar features may encroach into setbacks, subject to compliance with applicable standards of the Uniform Building Code and Uniform Fire Code. Walls and fences may be placed on the property line.

- F. Lot Coverage. There is no maximum lot coverage requirement, except for compliance with other sections of this code.
- G. Building Height. Buildings shall be no more than twenty-eight (28) feet in height, except that building heights up to thirty-five (35) feet may be approved through a conditional use permit.

17.54.070 Design Standards.

The following design standards apply within the Woolen Mill Overlay Zone.

- A. Building Orientation. All new development shall be orientated to the street according to the following criteria:
  - 1. The minimum and maximum setback standards are met.
  - 2. At least one main building entrance shall face the street.
  - 3. If the building has frontage on more than one street, a single entrance on the corner may be allowed in place of separate entrances on each street.
- B. Building Articulation. Building facades that face a street shall be articulated to provide interest and to avoid a flat appearance. This standard can be satisfied through the use of cornices, bases, fenestration, masonry and other materials.
- C. Ground Floor Windows.
  - 1. All new structures shall provide at least 50% of the area of the ground floor façade along the street as transparent windows or building entrances.
  - 2. Darkly tinted or mirrored windows that block visibility are prohibited on ground floors along streets.
- D. Access, Parking and Loading.
  - 1. Vehicle access to parking and loading areas shall be from 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> Streets wherever practicable. Driveways on to Fillmore Avenue shall be avoided wherever practicable. Alley-type access may be allowed for the purposes of deliveries if deemed appropriate by the Planning Commission.
  - 2. Off-street parking shall meet the requirements of Chapter 17.96.
  - 3. Driveways, parking or other vehicle circulation areas shall not be placed between a building and the street.
  - 4. Loading docks, bays, or other vehicle access areas shall not face Fillmore Avenue. However, nothing precludes the designation of loading zones on Fillmore.

17.54.080 Additional Standards.

- A. Landscaping. All areas abutting a street that are not occupied by structures or driveways shall be landscaped or public spaces, such as extra-wide sidewalks or plazas. A 4-foot wide landscaped strip shall be provided along parking areas that abut a street. A 3-foot high masonry wall may be substituted for landscaping provided it does not encroach upon the vision clearance area.
- B. Outside Sales Area. Any outside sales area shall be drained and surfaced with crushed rock or paved.
- C. Utilities and Mechanical Equipment. All utility lines shall be underground and entry fixtures, vaults or boxes shall not face Fillmore Avenue.
  - 1. Mechanical equipment shall be screened with a fence or landscaping, or housed in a structure which is finished in the same materials as the main building.
  - 2. Mechanical equipment attached to the building, including heating vents and window air conditioning units, shall not face Fillmore Avenue and should be kept as low as possible and covered or painted to blend with the background.

3. Antennas and satellite dishes and other receiving equipment shall not be visible from Fillmore Avenue.
- D. Exterior Lighting. All lighting should be appropriate to the building and its surroundings in terms of style, scale and intensity of illumination. Lighting shall be directed away from neighboring residential areas and shall be shielded or directed downward to minimize light intrusion onto adjacent properties.
- E. 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 roof surfaces.
- F. Signs. See Chapter 17.90 Signs
- G. Trash Enclosures. Dumpsters or trash receptacles for the exclusive use of a business, or other storage areas shall be screened or fenced or otherwise not visible from the street.

## Chapter 17.56

### HEAVY INDUSTRIAL (HI) ZONE

#### Sections:

- 17.56.010 Purpose.
- 17.56.020 Permitted uses.
- 17.56.030 Conditional uses.
- 17.56.040 Limitations on uses.
- 17.56.050 Signs.
- 17.56.060 Lot size.
- 17.56.070 Yards.
- 17.56.080 Height of building.
- 17.56.090 Lot coverage.
- 17.56.100 Outside sales area.

#### 17.56.010 Purpose.

The purpose of the HI zone is to provide space for industry to ensure the future well-being of the city.

#### 17.56.020 Permitted uses.

In the HI zone, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Public utilities, including service structures.

#### 17.56.030 Conditional uses.

In the HI zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Manufacturing, repairing, compounding, fabrication, processing, packing and storage;
- B. Governmental building or use;
- C. Sales of products manufactured on site.

#### 17.56.040 Limitations on uses.

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

#### 17.56.050 Signs.

See Chapter 17.90 Signs

#### 17.56.060 Lot size.

In the HI zone, lot size shall have no requirements.

#### 17.56.070 Yards.

In the HI zone a side or rear yard abutting a residential zone shall be at least twenty (20) feet.

#### 17.56.080 Height of building.

In the HI zone, no structure within one hundred fifty (150) feet of a residential zone shall exceed a height of forty-five (45) feet.

#### 17.56.090 Lot coverage.



In the HI zone, buildings shall not occupy more than seventy-five (75) percent of the developed lot or lots.

17.56.100 Outside sales area.

In the HI zone, any outside sales area shall be drained and paved or surfaced with crushed rock.

## Chapter 17.60

### PUBLIC FACILITIES AND PARKS (PF) ZONE

#### Sections:

- 17.60.010 Purpose.
- 17.60.020 Permitted uses.
- 17.60.030 Conditional uses.
- 17.60.040 Conditional use permit fee.

#### 17.60.010 Purpose.

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

#### 17.60.020 Permitted uses.

No land uses are permitted outright in the PF zone.

#### 17.60.030 Conditional uses.

In the PF zone, the following uses and their accessory uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Schools, including nursery or day care centers;
- B. Parks or recreational facilities;
- C. Public utility or service buildings;
- D. Public parking;
- E. Government structures, offices or uses;
- F. Community center;
- G. Cemeteries;
- H. Other uses conducted for public purposes.
- I. Small-scale commercial uses that occur on an on-going basis (at least 3 times per week), provided they are incidental to the primary use, are undertaken on property owned by a public agency, and are specifically authorized by the public agency owning the property. Occasional uses, events, and activities are allowed subject to administrative review.

#### 17.60.040 Conditional use permit fee.

A public agency applying for a conditional use permit in the public facilities and parks zone is not subject to the conditional use permit fee.

## Chapter 17.64

### WATER (W) ZONE

#### Sections:

- 17.64.010 Purpose.
- 17.64.020 Natural management units.
- 17.64.030 Permitted uses in natural management units.
- 17.64.040 Conditional uses in natural management units.
- 17.64.050 Conservation management units.
- 17.64.060 Permitted uses in conservation management units.
- 17.64.070 Conditional uses in conservation management units.
- 17.64.080 Development management units.
- 17.64.090 Permitted uses in development management units.
- 17.64.100 Conditional uses in development management units.
- 17.64.110 Estuarine fill and removal.
- 17.64.120 Agency notification.

#### 17.64.010 Purpose.

- A. The purpose of the water zone is to identify estuarine areas of the city and to provide for uses which are suitable and necessary for such areas, consistent with the Bandon comprehensive plan.
- B. The water zone is composed of estuarine management units that have been assigned one of three designations according to their biological importance to the estuary. These management unit designations correspond to the estuarine management unit designations in the Bandon comprehensive plan.
- C. The three management unit designations are natural (N), conservation (C) and development (D). Uses and activities therein must conform to the overall purpose of the management units where they are proposed:
  - 1. In natural (N) areas, to assure the protection of significant fish and wildlife habitats, of continued biological productivity within the estuary, and of scientific, research and educational needs;
  - 2. In conservation (C) areas, to manage these areas for long-term uses of renewable resources that do not require major alteration of the estuary, except for the purpose of restoration; and
  - 3. In development (D) areas, to provide for navigation and other identified needs for public, commercial, industrial water-dependent uses, consistent with the level of development or alteration allowed by that management unit.

#### 17.64.020 Natural management units.

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

#### 17.64.030 Permitted uses in natural management units.

In the N management units, the following uses are permitted outright provided that the use promotes the purpose of the zone and all other requirements of this title are met:

- A. Undeveloped low-intensity, water-dependent recreation;
- B. Research and educational observations;

- C. Navigation aids, such as beacons and buoys;
- D. Protection of habitat, nutrient, fish, wildlife and aesthetic resources;
- E. Passive restoration measures;
- F. Dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels and bridge crossing support structures;
- G. Riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values;
- H. Public utilities, including service structures; and
- I. Bridge crossings.

17.64.040 Conditional uses in natural management units.

- A. A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.
- B. Where consistent with the resource capabilities of the area and the purposes of this management unit the following uses may be allowed as conditional uses as per Chapter 17.92:
  - 1. Aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks;
  - 2. Communication facilities;
  - 1. Active restoration of fish and wildlife habitat or water quality and estuarine enhancement;
  - 2. Boat ramps for public use where no dredging or fill for navigational access is needed; and
  - 5. Pipelines, cables and utility crossing, including incidental dredging necessary for their installation;
  - 6. Installation of tidegates in existing functional dikes;
  - 7. Temporary alterations;
  - 8. Bridge crossing support structures and dredging necessary for their installation.

17.64.050 Conservation management units.

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

17.64.060 Permitted uses in conservation management units.

Permitted uses in conservation management units shall be all uses listed in natural management units above except temporary alterations.

17.64.070 Conditional uses in conservation management units

- A. Where consistent with the resource capabilities of the area and the purposes of this

management unit, the following uses may be allowed as conditional uses, per Chapter 17.92, and a use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity, and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biological productivity, recreational and aesthetic values and aquaculture.

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

17.64.080 Development management units.

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

17.64.090 Permitted uses in development management units.

- A. Permitted uses in areas managed for water-dependent activities shall be navigation and water-dependent commercial and industrial uses.
- B. As appropriate, the following uses shall also be permissible in development management units:
1. Dredge or fill, as allowed in conservation or natural management units;
  2. Navigation and water-dependent commercial enterprises and activities;
    1. Water transport channels where dredging may be necessary.
  4. Flow-lane disposal of dredged material monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected natural and conservation management units;
  5. Water storage areas where needed for products used in or resulting from industry, commerce and recreation;
  6. Marinas.

17.64.100 Conditional uses in development management units.

- A. Where consistent with the purposes of this management unit, Chapter 17.92, and adjacent shorelands designated especially suited for water-dependent uses or designated for waterfront redevelopment, water-related and non-dependent, non-related uses not requiring dredge or fill; mining and mineral extraction; and activities identified in natural or conservation management units shall also be appropriate.
- B. In designating areas for these uses, the city shall consider the potential for using upland

sites to reduce or limit the commitment of the estuarine surface area for surface uses..

17.64.110 Estuarine fill and removal.

Dredge, fill or other reduction or degradation of estuarine values shall be permitted only if such activities are allowed in the respective management unit and:

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

This requirement shall be implemented by the preparation of findings by the city documenting that such proposed actions are consistent with the comprehensive plan and with the criteria listed above. This requirement recognizes that Goal #16 limits dredge, fill and other estuarine degradation in order to protect the integrity of the estuary.

17.64.120 Agency notification.

For conditional uses within the water zone, the following agencies shall be notified by mail according to the notice provisions as stated in Section 17.120.090:

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

17.64.130 Signage.

See Chapter 17.90 Signs

## Chapter 17.68

### NATURAL RESOURCE AND OPEN SPACE (NR) ZONE

#### Sections:

- 17.68.010 Purpose.
- 17.68.020 Permitted uses.
- 17.68.030 Conditional uses.

#### 17.68.010 Purpose.

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

#### 17.68.020 Permitted uses.

In the NR zone the following uses are permitted outright:

- A. Wildlife and marine life sanctuaries;
- B. Public parks;
- C. Low-intensity recreational uses which do not include the use of structures;
- D. Harvesting wild crops.

#### 17.68.030 Conditional uses.

In the NR zone, the following uses may be allowed in accordance with Chapter 17.92 and the provisions of this title:

- A. Public utilities and facilities, except that all utilities shall be underground;
- B. Structures for recreational activity or public use, except that such structures shall be built and located so as to minimize their impact on visual and resource values of the area;
- C. Historical structures and rehabilitation of such structures;
- D. Aquaculture and accessory facilities;
- E. Propagation and selective harvesting of forest products;
- F. Grazing;
- G. Nonstructural foredune maintenance, repair or restoration, not including foredune grading.

## Chapter 17.72

### HISTORIC - CULTURAL OVERLAY (HC) ZONE

#### Sections:

- 17.72.010 Purpose.
- 17.72.020 Permitted and conditional uses.
- 17.72.030 List of historic sites.
- 17.72.040 Review by planning commission.
- 17.72.050 HC overlay zone district amendments.

#### 17.72.010 Purpose.

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

#### 17.72.020 Permitted and conditional uses.

Within the HC overlay zone all uses permitted outright or conditionally within the underlying general use zone shall be permitted subject to the provisions of that use zone. The provisions of the HC zone shall be applied in addition to those requirements of the underlying zone. None of the provisions of the HC zone are meant to reduce or replace the provisions of the applicable underlying general use zone.

#### 17.72.030 List of historic sites.

The following structures/lots shall be subject to the provisions of the HC overlay zone:

- A. Breuer Building, 460 1st Street SW (ca.1894);
- B. Kronenberg (John) Home, 95 Harlem Avenue SE
- C. Bandon Masonic Lodge Building, 108 2nd Street SE (formerly 1st National Bank, ca. 1915);
- D. Bandon Lighthouse, North Jetty (Bullards Beach State Park);
- E. Old Coast Guard Building, 390 1st Street SW;
- F. Coquille Indian Tribe cultural resource lands as identified in the comprehensive plan.  
*(Deleted: Moore Mill Truck Shop, 67 Elmira SE, Bandon Waterfront (formerly the Nestles Milk Condensing Plant, ca. 1920) Ord. 1452 1-02-01)*

#### 17.72.040 Review by planning commission.

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

The applicant for a permit shall present to the planning commission information concerning the proposed action and the planning commission shall make the findings and recommendations which shall include the following:

- A. Whether the site, structure or object has maintained the required characteristics for historical significance;
- B. Whether it has deteriorated or changed so as to become hazardous to the public health, safety or welfare;
- C. Whether historical significance will be substantially affected by the proposed change;
- D. Whether the financial or other hardship to the owner in preserving the historic significance is outweighed by the public interest in preserving historic values;
- E. Whether there are alternative ways in which historic values may be preserved if the proposed action is carried out;



- F. Whether the proposed action or change will have any substantial economic, social, environmental or energy consequences on the public and private interests involved;
- G. Whether there are sources of compensation or financial assistance available to compensate the owner in the event that preservation of the property is recommended by the commission.

17.72.050 HC overlay zone district amendments.

All applications for HC overlay zoning and other zone district amendments shall be reviewed by the planning commission. The commission shall recommend to the city council approval, disapproval or modification of the proposed amendment based on the following criteria:

- A. The structure or site is recognized as a historic site by the Oregon Historic Preservation Office or is listed on the National Register of Historic Places;
- B. The structure or site is recognized by a local or statewide organization as having historic value and is in the process of being designated as such by the state or federal government or by the planning commission based on unique significance of the structure;
- C. The site has been shown to be of archaeological importance by the Oregon State Historical Preservation Office.

## Chapter 17.76

### SHORELAND OVERLAY (SO) ZONE

#### Sections:

- 17.76.010 Purpose.
- 17.76.020 Permitted uses and activities.
- 17.76.030 Conditional uses and activities.
- 17.76.040 Correspondence with underlying zone.
- 17.76.050 Special provisions.
- 17.76.060 Supplemental provisions for estuarine and shoreland uses/activities--pre-application conference.
- 17.76.070 Notification of public agencies.
- 17.76.080 Information to be provided.
- 17.76.090 Resource capabilities test.
- 17.76.100 Dredge, fill, or other significant reductions or degradations.
- 17.76.110 Impact assessment.
- 17.76.120 Coordination with Division of State Lands (DSL) state/federal waterway permit reviews.
- 17.76.130 Shoreland uses/activities matrix.

#### 17.76.010 Purpose.

The purpose of the shoreland overlay zone is to implement the provisions of the shoreland management units adopted in the city's comprehensive plan. The uses for each shoreland management unit are shown in Table 17.76.130, Shoreland Uses/Activities Matrix. These management units are shown on the city's zoning map.

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

#### 17.76.020 Permitted uses and activities.

Permitted uses and activities are designated for each management unit in Table 17.76.130, Shoreland Uses/Activities Matrix. To resolve possible conflicts, the following rules shall apply:

- A. Uses permitted in the shoreland overlay zone but conditional uses in the underlying zone shall be conditional uses.
- B. Uses permitted in the shoreland overlay zone but not permitted in the underlying zone shall not be permitted.
- C. Activities not listed in the underlying zone shall be permitted or not permitted according to this overlay zone.

#### 17.76.030 Conditional uses and activities.

The conditional uses listed in Table 17.76.130, Shoreland Uses/Activities Matrix, may be allowed when in accordance with Chapter 17.92, applicable conditions of approval listed as footnotes on the table, and applicable policies of the comprehensive plan. Plan estuary Policies "A" through "U" are included herein by reference and made a part of this title.

17.76.040 Correspondence with underlying zone.

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

17.76.050 Special provisions.

All uses and activities, whether permitted or conditional, must conform to the standards listed below and the shoreland uses/activities matrix, appearing as Table 17.76.130 in this chapter. These standards are applicable to wetlands shown on the National Wetlands Inventory Map and other inventory maps of the city.

- A. Dredged Material Disposal (DMD), Restoration (R), or Mitigation (M) Sites. Uses otherwise permitted by this title but proposed within a designated DMD, R or M site shall be permitted only upon satisfying all of the following criteria:
1. The proposed use must not entail substantial structural or capital improvements, such as roads, permanent structural or capital improvements, such as roads, permanent buildings, or non-temporary water and sewer connections;
  2. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site, such as extensive site grading/excavation or elevation from fill;
  3. The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat.
- B. Significant Wildlife Habitat. These sites are limited to uses and activities which are consistent with the protection of natural values. Such uses may include harvesting wild crops and low-intensity recreational and educational activities not requiring developed facilities.
- C. Riparian Vegetation. Riparian vegetation shall be protected as per Section 17.104.100, and by requiring a site plan showing (as applicable):
1. The shoreline;
  2. The shorelands plan boundary;
  3. The extent of riparian vegetation;
  4. The details of proposed construction or access and any proposed vegetation removal;
  5. The above shall be shown for an area within fifty (50) feet horizontal distance from the line of non-aquatic vegetation.
- D. Areas Especially Suited for Water-Dependent Uses (ESWD). Any use proposed for a site designated as ESWD on the special features map must be found to be consistent with comprehensive plan Policy "L."
- E. Historic Structures and Sites. The Breuer Building, the Bandon Lighthouse, the Old Coast Guard Building and the Moore Mill Truck Shop are protected by the historic-cultural overlay zone (HC), and all uses shall be consistent with comprehensive plan Policy 2--Historical and Archaeological Preservation.

17.76.060 Supplemental provisions for estuarine and shoreland uses/activities--pre-application conference.

- A. The following provisions shall be applied as applicable to implement Chapter 17.64: The applicant may request a pre-application conference which will be held within ten (10) days of the request.
- B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this title and the comprehensive plan, provide for an exchange of information regarding applicable elements of the comprehensive plan and city ordinances, determine what technical and design assistance will be needed to aid the applicant, identify previously approved development proposals of a similar nature into conformance with necessary state and/or federal permit requirements, indicate what

information will be required to review the application, and otherwise identify policies and requirements of this title that create opportunities or pose constraints for the proposed development.

17.76.070 Notification of public agencies.

For conditional uses within the shoreland overlay zone, the following agencies shall be notified by mail according to the notice provisions as stated in Section 17.120.090:

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

17.76.080 Information to be provided.

In addition to the information listed in Chapter 17.92 and in the underlying zone and in other parts of this title, the following information may be required, as applicable:

- A. Identification of resources existing at the site;
- B. Description of the types of alteration to occur, if any, including information detailing the extent of the alteration, such as:
  - 1. Area measurement,
  - 2. Site coverage,
  - 3. Depth to which alterations will extend,
  - 4. Volume of material removed or placed as fill;
- C. Effects of the proposed use on physical characteristics of the estuary and the proposed site, such as:
  - 1. Flushing,
  - 2. Patterns of circulation and other hydraulic factors,
  - 3. Erosion and accretion patterns,
  - 4. Salinity, temperature and dissolved oxygen,
  - 5. Biological and chemical oxygen demand,
  - 6. Turbidity and salinity characteristics of the water;
- D. Effects of the proposed use on biological characteristics of the estuary and shorelands such as:
  - 1. Benthic habitats and communities,
  - 2. Anadromous fish migration routes,
  - 3. Fish and shellfish spawning and rearing areas,
  - 4. Primary productivity, resting, feeding and nesting areas for migratory and resident shorebirds, wading birds and other waterfowl,
  - 5. Riparian vegetation,
  - 6. Wildlife habitat;
- E. Effects of the proposed use on other established uses in the area;
- F. Impacts of the proposed use on navigation and public access to shoreland or estuarine

- areas;
- G. Assurance that structures have been properly engineered;
- H. Alternative project designs and/or locations which have been considered in order to minimize preventable adverse impacts;
- I. Steps which have been taken to minimize or avoid adverse impacts;
- J. If application has been made to the Corps of Engineers of Oregon Division of State Lands for permit approval, applications for local approval shall include the federal/state permit application and information submitted with that request;
- K. A set of findings which demonstrate compliance with the applicable policies, standards, the criteria required by the comprehensive plan and this title;
- L. Maps, photographs, or other descriptive materials showing how the siting, design, operation and maintenance chosen by the applicant meets the policies, standards and criteria of the comprehensive plan and this title.

17.76.090 Resource capabilities test.

Certain uses in estuarine areas require findings of consistency with the resource capabilities of the area. For uses and activities requiring the resource capabilities test, a special condition is noted in the applicable subdistrict. Other uses either do not require the test or adequate findings are already included in the comprehensive plan. The provisions of this section apply only to those uses and activities for which the resource capabilities test is required as a special condition.

- A. A determination of consistency with resource capabilities shall be based on:
  1. Identification of resources existing at the site, including environmental (e.g., aquatic life and habitat present, benthic populations, migration routes) and social and economic factors (navigation channels, public access facilities, areas especially suited for water-dependent use);
  2. Evaluation of impacts on those resources by the proposed use;
  3. Determination of whether the resources can continue to achieve the purpose of the management unit if the use is approved.
- B. In determining consistency of a proposed use with the resource capabilities of the area, the city shall rely on federal or state resource agencies for regulated activities in estuarine areas. Findings must show that the proposed use is consistent with the permits approved for that area. The city may submit proposed findings to the permit-issuing agency as a part of the local review and comment process. (Amended during 2000 codification)

17.76.100 Dredge, fill, or other significant reductions or degradations.

Uses and activities which involve dredge, fill or other significant reductions or degradations of natural estuarine values are allowed in the respective management units only if such actions are found to be consistent with comprehensive plan Policy "E." For the purpose of this requirement, "significant" shall be determined by:

- A. The U.S. Army Corps of Engineers through its Section 10 and 404 permit processes; or
- B. The Department of Environmental Quality for approvals of new aquatic log storage areas only; or
- C. The Department of Fish and Wildlife for new aquaculture proposals only. (Amended during 2000 codification)

17.76.110 Impact assessment.

Findings for uses in Sections 17.76.090 and 17.76.100 shall be made according to comprehensive plan Policy "E." Findings need not be lengthy or complex, but it shall provide a clear understanding of the impacts to be expected.

17.76.120 Coordination with Division of State Lands (DSL) state/federal waterway permit reviews.

If the city is notified by DSL that a state or federal permit has been requested for a use or activity which is permitted outright or permitted with standards, the following provisions shall apply:

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

17.76.130 Shoreland uses/activities matrix.

Shoreland uses/activities in the SO zone are shown in the following table:

Table 17.76.130: SHORELAND USES/ACTIVITIES MATRIX

Shorelands Mgmt Unit No. Plan Designation Uses	1	2	3A	3E	4	5	6	7	8	9	10	11	12
	PF	CD	MC	ESWD	PF	UR	OTC	OS	CD	PF	NR	NR	CD
Aquaculture	NP	NP	P	P	NP	P	NP	NP	NP	NP	CU	CU	NP
<b>Commercial Uses</b>													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Water-related	NP	NP	P	CU*	NP	NP	CU	NP	P	NP	NP	NP	NP
Not dependent or related	NP	CU	P	NP	NP	NP	CU	NP	P	NP	NP	NP	NP
Water oriented	NP	CU	P	NP	NP	NP	P	NP	P	NP	NP	NP	NP
<b>Industrial Uses</b>													
Water-dependent	NP	NP	P	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Water-related	NP	NP	P	CU*	NP	NP	CU	NP	P	NP	NP	NP	NP
Not dependent or related	NP	NP	P	NP	NP	NP	CU	NP	P	NP	NP	NP	NP
Log Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Marinas (shore facilities)	NP	NP	NP	P	NP	NP	NP	NP	CU	NP	NP	NP	NP
<b>Recreational Uses</b>													
Water-dependent	P	CU	P	P	P	P	NP	NP	NP	P	P1	P1	P1
Water-related	NP	CU	P	CU*	P	P	P	NP	CU	NP	P1	P1	P1
Not dependent or related	NP	CU	P	NP	P	P	P	P	P	NP	P1	P1	P1
Residential	NP	CU	P	NP	NP	P	P	NP	P	NP	NP	NP	CU6
Utilities	P	P	P	CU*	P	CU	P	P	P	P	CU	CU	P
Parks and Sanctuary	P	CU	CU	NP	CU	CU	P	P	CU	P	P	P	CU

Shorelands Mgmt Unit No. Plan Designation Uses	1	2	3A	3E	4	5	6	7	8	9	10	11	12
	PF	CD	MC	ESWD	PF	UR	OTC	OS	CD	PF	NR	NR	CD
Harvest Wild Crops	P	P	NP	NP	NP	P	NP	P	NP	P	P	P	P
Pub. Use Structure including Recreational	P	CU	CU	CU*	P	CU	CU	P	CU	P	CU	CU	CU
Historical Struc. including Rehab.	P	CU	CU	CU*	P	CU	CU	P	CU	P	CU	CU	CU
Forest Products													
Propagation & selective harvest	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CU	CU	NP
Grazing	NP	NP	NP	NP	NP	NP	NP	CU	NP	NP	CU	CU	NP
Dredged Material													
Disposal	NP	NP	NP	NP	NP	NP	NP	NP	CU 2,3,5	NP	CU 2,3,5	NP	NP
Dune Stabilization and Restoration													
Active	NP	CU	NP	NP	NP	NP	NP	NP	NP	NP	CU	CU	CU
Passive	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P
Fill	P	P7	P	P	P	P	P	P	P	P	P	P	P
Land Division	NP	P	P	P	NP	P	P	P	P	NP	CU	CU	CU
Mitigation	NP	P	NP	NP	NP	NP	NP	NP	P	NP	P	P	CU
Shoreline Stabilization													
Structural	CU 4	CU4	CU4	CU4	CU4	NP	CU4	NP	CU4	CU4	CU4	CU4	CU4
Nonstructural	P	P	P	P	P	P	P	P	P	P	P	P	P

- |     |                        |    |   |
|-----|------------------------|----|---|
| PF  | Public Facilities      | P  | Permitted   |
| CD  | Controlled Development | CU | Conditional Use                                   |
| MC  | Marine Commercial      | NP | Not Permitted                                     |
| UR  | Urban Residential      | *  | Must be in conjunction with a water-dependent use |
| OTC | Old Town Commercial    |    |   |
| OS  | Open Space             |    |   |
| I   | Industrial             |    |   |
| NR  | Natural Resource       |    |   |

#### Endnotes

- Low intensity uses only
- In designated site only
- Dredged material disposal (DMD) must include stabilization measures to control runoff and prevent sloughing
- Subject to comprehensive plan policy "I"
- Subject to comprehensive plan policy "N"
- See Bandon comprehensive plan, Part V, Land Use Classifications, Public and Environmental Areas, Natural Resource Areas
- Fill subject to specific requirements of the CD-2 zone Chapter 17.24.110

## Chapter 17.77

### BEACHES AND DUNES OVERLAY (BDO) ZONE

#### Sections:

- 17.77.010 Purpose.
- 17.77.015 BDO Zone Boundaries
- 17.77.020 Permitted and Prohibited uses and activities.
- 17.77.030 Conditional uses and activities.
- 17.77.040 Relationship between the BDO Zone and the underlying zone.
- 17.77.050 Amendments to the Beaches and Dunes Overlay (BDO) Zone.
- 17.77.070 Comprehensive Legislative Amendments to the Beaches and Dunes Overlay (BDO) Zone or BDO Zone Boundaries

#### 17.77.010 Purpose.

The purpose of the Beaches and Dunes Overlay (BDO) Zone is to implement the provisions of the Beaches and Dunes Section of the Coastal Resources Chapter of the City of Bandon Comprehensive Plan and Statewide Planning Goal 18 (Beaches and Dunes). The BDO boundary is identified by the City of Bandon utilizing preliminary ocean flood analysis maps developed by the Oregon Department of Geology and Mineral Industries (DOGAMI) in 2010 on behalf of FEMA for the purposes of identifying the 1% flood zone and the most landward extent of potential ocean flooding associated with the 1% storm. The purpose of the Beaches and Dune Overlay is to identify areas subject to ocean overtopping and wave undercutting that would be subject to Statewide Planning Goal 18 development restrictions.

#### 17.77.015 Beaches and Dunes Overlay Zone Boundaries

The Beaches and Dunes Overlay Zone is shown on the City of Bandon zoning map and the more detailed supplemental maps that define the Beaches and Dunes Overlay Zone boundary.

- A. The Jetty (Beaches and Dunes Overlay (BDO) Zone Map - South Jetty Area )
- B. Johnson Creek Study Area (Beaches and Dunes Overlay (BDO) Zone Map - Johnson Creek Area)

#### 17.77.020 Permitted and Prohibited uses and activities.

The Beaches and Dunes Overlay Zone is a limited use overlay zone. All uses and activities authorized by the underlying zone are subject to review and approval as outlined in this Chapter. Residential developments and commercial and industrial buildings are prohibited within the Beaches and Dunes Overlay Zone.

#### 17.77.030 Conditional uses and activities.

Other development, not restricted in 17.77.020 above, shall only be allowed if the proposed development:

- A. Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and
- B. Is designed to minimize erosion in beach and dune areas by limiting the destruction of desirable vegetation and the exposure of stable and conditionally stable areas to



- erosion; and
- C. Mitigates any significant adverse environmental effects on the site and adjacent areas; and
- D. Is proposed to include
  1. temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; and
  2. for protecting the surrounding area from any adverse effects of the development; and 3) minimizes to insignificant levels, hazards to life, public and private property, and impacts to the natural environment which may be caused by the proposed use.

17.77.040 Relationship between the Beaches and Dunes Overlay Zone and the underlying zone.

The Beaches and Dunes Overlay (Beaches and Dunes Overlay) Zone is a limited use overlay zone. It identifies the location of existing Statewide Planning Goal 18 development prohibition areas within beach and dune areas. Uses and activities allowed within the underlying zone are limited as indicated in 17.77.030 above.

17.77.050 Replacement of lawfully established Structures:

Any lawfully established structure which is located in the Beaches and Dunes Overlay Zone, may be replaced subject to the following:

- A. The structure must be sited either within the same building footprint, or farther away from the ocean, if deemed appropriate by the City and the applicant to decrease coastal hazard risk, and
- B. Replacement or repair of lawfully established structures shall be subject to all city, state and federal siting and construction requirements in effect at the time of the application.
- C. Real property that is claimed by marine erosion and becomes part of the ocean beach will no longer be buildable land. If a dwelling is damaged or destroyed by coastal storm and ocean erosion there may be little or no buildable land remaining on which to rebuild. In addition, there may be jurisdictional or ownership issues which may impact or preclude replacement of the dwelling.

17.77.070 Comprehensive Legislative Amendments to the Beaches and Dunes Overlay (BDO) Zone or BDO Zone Boundaries.

- A. The City may amend the boundary utilizing a legislative comprehensive plan amendment process, if a future comprehensive area wide analysis, consistent with Statewide Planning Goal 18, indicates that a boundary change is warranted.
- B. The analysis, and findings to develop a new boundary by the city must address Goal 18 development prohibition areas for residential and commercial/industrial structures (i.e. beaches, active foredunes, other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas ( deflation plains) that are subject to ocean flooding) . In addition, other development in these areas should only be permitted if it:
  1. Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and
  2. Is designed to minimize adverse environmental effects.

- C. Notice to DOGAMI, OPRD, and DLCDC, must be provided at least 45 days prior to the first evidentiary hearing.

## Chapter 17.84

### ARCHITECTURAL REVIEW OVERLAY (AR) ZONE\*

#### Sections:

- 17.84.010 Establishment - Boundaries
- 17.84.015 Purposes.
- 17.84.020 Architectural Review Overlay Provisions.
- 17.84.030 Certificate of appropriateness (COA).
- 17.84.040 Application for COA.
- 17.84.042 Fees
- 17.84.044 Notice and Hearing
- 17.84.050 Appeal.
- 17.84.055 Time Limitation
- 17.84.060 Standards and Guidelines
- 17.84.070 Signs.
- 17.84.100 Nonconforming uses and structures.

Ordinance history: 1336; 1446, 1464, 1546

#### 17.84.010 Establishment - Boundaries

- A. This chapter establishes the architectural review overlay zone (AR) and makes the district subject to the architectural review overlay zone regulations. The boundaries are shown on the architectural review overlay zone map.

#### 17.84.015 Purpose

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

1. Stabilize and improve property values in the district;
2. Foster civic pride in the beauty and accomplishments of both the past and present;
3. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry;
4. Strengthen the economy of the city;
5. Promote the use of the historical district, its landmarks and scenic areas for the education, pleasure and welfare of Bandon citizens. (Ord. 1446 (part), 2000)

#### 17.84.020 Application of provisions.

Within the architectural review overlay zone all uses permitted outright or conditionally within the underlying general use zone shall be allowed subject to the provisions of that use zone. The provisions of the architectural review overlay zone shall be applied in addition to the requirements of the underlying zone. None of the provisions of the architectural review overlay zone are meant to reduce or replace the provisions of the applicable underlying general use zone.

#### 17.84.030 Certificate of appropriateness (COA)

- A. No buildings or structures shall be erected, reconstructed, altered, restored or painted, within the AR overlay zone; and no sign, light, fence, wall or other appurtenant fixture hereinafter called "appurtenant fixtures" shall be erected or displayed within the AR

overlay zone on any lot or visible from the exterior of any building or structure, and no landscaping or plantings shall be located unless an application of a Certificate of Appropriateness (COA) has been approved in accordance with this chapter. Further, no zoning compliance or other permit shall be granted for any such purpose in the Architectural Review Overlay Zone until a COA has been issued.

- B. The Planning Commission shall be the approving authority for COA's except as noted in subsection C of this section.
- C. The Planning Director is authorized to issue administrative decisions regarding the following items without notice: routine maintenance projects, replacement of existing appurtenant fixtures of like material and design, landscaping, painting (if the colors are consistent with the approved color chart), signs, and other actions determined by the Planning Director to have little or no impact on the building or streetscape. The Planning Director may refer any application to the Planning Commission.

17.84.040 Application for COA.

- A. All applications for a COA shall be filed with the Planning Department on the prescribed forms and upon payment of the prescribed fee. All information required in the application shall be submitted before the matter is scheduled before the Commission or by the Planning Director. All plans, elevations, colors, materials, textures, landscaping and such other information as required on the application checklist and/or deemed necessary by staff to determine the appropriateness of the exterior features of buildings in question shall be included as part of the application.
- B. Within 15 days of the application being submitted to the City, the Planning Department shall notify the applicant in writing of what information, if any, is needed to complete the application. Upon receipt of the requested information, the application shall be deemed complete.

17.84.042 Fees

Fees to accompany applications for a COA shall be set by resolution of the City Council.

17.84.044 Notice and Review

Notice shall be provided and review shall occur in accordance with Chapter 17.120.070.

17.84.050 Appeal.

Appeals shall be made pursuant to the requirements of Chapter 17.124.

17.84.060 Standards and Guidelines

The following criteria shall be considered appropriate to the proposed improvement before a certificate of appropriateness shall be approved.

A. Landscaping

1. Planting Material. Removal of mature trees and shrubs is discouraged and should not be done unless there is no alternative. Care should be taken to select plants appropriate to the landscaping requirement (shade, ground-cover, screening, etc.). Consideration should be given to the future care and maintenance of all plant material.
2. Landscape Continuity. Plants and other landscaping elements (fences, walls, steps, etc.) should be used to create continuity among buildings, especially along the street edge and front yards.

- B. Fences. The height and design of fences should relate to their intended use and to the principal structure on the lot. Where fences are used they should be of wood, iron, stone or plant material. Chain link or similar metal fences, plastic, fiberglass or plywood

fences are discouraged.

- C. Sidewalks and Driveways. Where walkways and driveways are necessary, asphalt should be avoided. Brick and other materials indigenous to the area are appropriate for walkways. Aggregate concrete or gravel are appropriate for driveways.

D. Building Design

1. Building Size and Surroundings. The height, width and depth of the building should be compatible with the nearby buildings, especially those most adjacent.
2. Scale. Buildings can be made to appear larger or smaller than they actually are through the use of architectural elements and details. Buildings should have an apparent size which relates to adjacent structures, the intended use and the height of the human being.
3. Alignment. The building should be aligned parallel to the existing structures or the street, maintaining the traditional pattern.
4. Orientation. The entrance location and primary facade of the building should be oriented in the same or similar direction of nearby buildings.
5. Building Shape. The ratio of height to width of the different elevations of the building should be consistent with that of nearby buildings.
6. Scale of Opening. The ratio of open surfaces (windows, doors) to enclosed surfaces (vertical and horizontal) which is similar to nearby buildings.
7. Directional Emphasis. The building shape, size, open and enclosed areas and building elements should together give a directional emphasis (vertical and horizontal) which is similar to nearby buildings.
8. Foundations. Exposed foundation walls should be as inconspicuous as possible and compatible with total architectural style of the structure.
9. Outbuildings. Size and scale of outbuildings should relate to the primary structure on the lot and should not be located so as to compete with or distract from that primary structure.

E. Architectural Features

1. Roof Form. The size, shape and type of roof should complement those of nearby structures.
2. Openings. The height, width and shape of door and window openings should be compatible with nearby buildings.
3. Projections. Projecting elements (dormers, bays, cupolas, turrets, etc.) should be compatible with those (if any) on adjacent structures and should be an integral part of the structure. Marquees should have sufficient roof slant to shed debris which could accumulate and create a fire hazard.
4. Additions. Additions such as porches, decks and exterior stairways should be compatible in size, shape and type with those found in nearby buildings and should be integrated into the overall design of the structure.
5. Exterior Wall Form. The size, shape and texture of exterior walls should be compatible with that of nearby buildings.

D. Materials

1. Type. The type of materials used should be selected from those acceptable materials already present in the area. An effort should be made to maintain the spectrum of materials already historically present.
3. Pattern. The pattern created by the unit size of the material (bricks, siding, shingles, etc.) and the method of application should be similar to those already present in the area.
4. Texture. The texture of materials (both visual and tactile) should be

similar to those of materials present in the area.

5. Color. The color of the materials should be natural wood or muted tones which are compatible with surrounding structures.

E. Utilities and Mechanical Equipment

1. Utility Lines. All utility lines should be underground and entry fixtures located away from high-use areas and main entrances or screened in an approved manner.
2. Exterior Lighting. All lighting should be appropriate to the building and its surroundings in terms of style, scale and intensity of illumination. Low voltage systems are recommended and site lighting will be considered on an individual case by case basis.
3. Solar Energy Devices. Where solar energy is to be used as a primary or complementary source of heat or other energy, solar collection devices should be located on the rear or other non-public side of the building, or on roof surfaces which are not visible from adjacent streets or other public areas in the city. Solar collection devices which are not attached to the building should be located only in the side or rear yard.
4. Mechanical Equipment. To minimize the impact of mechanical equipment on the appearance of the building and the community, window air conditioning units or condenser elements should not be located on the facade. Antennas and satellite dishes and other receiving equipment should be located where they are not visible from the front facade. Mechanical equipment on the ground should be screened with a fence or plant materials, or housed in a structure which is in harmony with the surroundings. Mechanical equipment attached to the side or roof of a building, including heating vents, should be kept as low as possible and covered or painted to blend with the background.
5. Dumpsters, trash receptacles for the exclusive use of a business, or other storage areas shall be screened or fenced or otherwise not visible from the street.

17.84.070 Signs

See Chapter 17.90 Signs

## Chapter 17.88

### AIRPORT OVERLAY (AO) ZONE

#### Sections:

17.88.010	Purpose.
17.88.020	Compliance.
17.88.030	Special definitions.
17.88.040	Permitted uses.
17.88.050	Conditional uses.
17.88.060	Procedures.
17.88.070	Limitations.

#### 17.88.010 Purpose.

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

In order to carry out the provisions of this overlay zone there is created and established an airport overlay zone, which includes all of the land lying beneath the airport imaginary surfaces as they apply to the Bandon State Airport in Coos County. Such zones are shown on the current airport approach and clear. zone maps, which are made a part of this title. (Ord. 1336 § 6.600, 1994)

#### 17.88.020 Compliance.

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

#### 17.88.030 Special definitions.

As used in this chapter:

“Airport approach safety zone” means a surface longitudinally centered on the extended runway center line and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of one thousand two hundred fifty (1,250) feet. The airport approach safety zone extends for a horizontal distance of five thousand (5,000) feet at a slope of twenty (20) feet outward for each foot upward (20:1).

“Airport hazard” means any structure, tree or use of land which exceeds height limits established by the airport imaginary surfaces.

“Airport imaginary surfaces” means those imaginary areas in space which are defined by the airport approach safety zone, transitional zones, horizontal zone, clear zone and conical surface and in which any object extending above these imaginary surfaces is an obstruction.

Clear Zone. The “clear zone” extends from the primary surface to a point where the approach surface is fifty (50) feet above the runway end.

Conical Surface. The “conical surface” extends twenty (20) feet outward for each one foot upward (20:1) for four thousand (4,000) feet beginning at the edge of the horizontal surface (five thousand (5,000) feet from the center of each end of the primary surface of each visual and utility runway at one hundred fifty (150) feet above the airport elevation) and upward extending to a height of three hundred fifty (350) feet above the airport elevation.

“Horizontal surface” means a horizontal plane one hundred fifty (150) feet above the

established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet from the center of each end of the primary surface of the runway and connecting the adjacent arcs by lines tangent to those arcs.

“Noise sensitive areas” means within one thousand five hundred (1,500) feet of the airport or within established noise contour boundaries exceeding fifty-five (55) Ldn.

“Place of public assembly” means a structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

“Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of the runway. The width of the primary surface is five hundred (500) feet.

Transitional Zones. “Transitional zones” extend seven feet outward for each one foot upward (7:1) beginning on each side of the primary surface, and from the sides of the approach surfaces thence extending upward to a height of one hundred fifty (150) feet above the airport elevation (horizontal surface).

“Utility runway” means a runway that is constructed and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

#### 17.88.040 Permitted uses.

Permitted uses within the airport approach safety zone include:

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

#### 17.88.050 Conditional uses.

Conditional uses within the airport approach safety zone include:

- A. A structure or building accessory to a permitted use;
- B. Single-family dwellings, mobile home, manufactured dwelling, duplexes and multi-family dwellings, when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Coos County a hold harmless agreement and aviation and hazard easement and submits them to the airport sponsor and Bandon planning commission;
- C. Commercial and industrial uses, when authorized in the primary zoning district, provided the use does not result in the following:
  - 1. Creating electrical interference with navigational signals or radio communications between the airport and aircraft,
  - 2. Making it difficult for pilots to distinguish between airport lights or others,
  - 3. Impairing visibility,
  - 4. Creating bird strike hazards,
  - 5. Endangering or interfering with the landing, taking off or maneuvering of aircraft intending to use the airport,
  - 6. Attracting a large number of people;
  - 7. Building and uses of a public works, public service or public utility nature.



17.88.060 Procedures.

An applicant seeking a conditional use under Section 17.88.050, shall follow procedures set forth in the conditional use section of the city zoning ordinance (Chapter 17.92). Information accompanying the application shall also include the following:

- A. Property boundary lines as they relate to the airport imaginary surfaces;
- B. Location and height of all existing and proposed buildings, structures, utility lines and roads; and
- C. A notice shall be provided to the Department of Transportation, Aeronautics Division, for conditional use applications within five thousand (5,000) feet of the sides or ends of the runway. The applicant shall furnish a statement from the Oregon Aeronautics Division indicating that the proposed use will not interfere with operation of the landing facility.

17.88.070 Limitations.

- A. To meet the standards and reporting requirements established in FAA Regulations, Part 77, no structures shall penetrate into the airport imaginary surfaces as defined above under Section 17.88.030.
- B. No structure of public assembly shall be permitted in the airport approach safety zone.
- C. No structure or building shall be allowed within the clear zone.
- D. Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern, provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
- E. No glare-producing materials shall be used on the exterior of any structure located within the airport approach safety zone.
- F. In noise-sensitive areas (within one thousand five hundred (1,500) feet of an airport or within established noise contour boundaries of fifty-five (55) Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be fifty-five (55) Ldn and above, prior to issuance of a building permit for construction of noise-sensitive land use (real property normally used for sleeping or normally use as schools, churches, hospital or public libraries), the permit application shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than forty-five (45) Ldn. The planning and building department will review building permits for noise sensitive developments.

## Chapter 17.90

### SIGNS

#### Sections:

17.90.010	Purpose
17.90.020	Scope
17.90.030	General Provisions
17.90.040	Temporary Signs
17.90.050	Political Signs
17.90.060	Non-conforming Signs
17.90.070	Residential Zones (R-1, R-2)
17.90.080	Controlled Development Zones (CD-1, CD-2, CD-3)
17.90.090	Controlled Development Residential Zones (CD-R1, CD-R2)
17.90.100	Old Town (C-1) and Architectural Review Overlay (AR)
17.90.110	General Commercial (C-2)
17.90.120	Water Zone (W)
17.90.130	Marine Commercial (C-3)
17.90.140	Light Industrial (LI), Heavy Industrial (HI), and Woolen Mill Overlay (WM)

17.90.010 Purpose The purpose of this chapter is:

- A. to ensure that signs are designed, constructed, installed and maintained to promote safe public automobile, bicycle, and pedestrian traffic;
- B. to protect the health, safety, property and welfare of the public;
- C. to provide prompt identification of businesses and residences for emergency access;
- D. to promote economic development;
- E. to provide clear achievable standards and balance the need of business with the desire to preserve and enhance the visual character of the City.

17.90.020 Scope

- A. The provisions of this chapter shall apply to exterior signs, and signs attached to the interior or exterior surface of windows.
  1. Nothing in this chapter shall permit the erection or maintenance of any sign at any place in any manner unlawful under this or any other chapter of the City of Bandon Municipal Code or State or Federal law.
  2. Official Notices. Nothing contained in this chapter shall be deemed or construed to apply to advertising structures or signs used exclusively to display official notices issued by any court or public office, or posted by any public officer in performance of a public duty, nor a private person in giving a legal notice.
  3. These provisions do not apply to signs owned and installed by the City.

17.90.030 General Provisions

- A. General provisions apply to all signs and advertising structures in all zones.
  1. Except as provided in Section 17.90.040, H., all signs must be located on the same property on which the activity to which the sign refers is located. Signs attached to a building, which are allowed by a temporary right-of-way permit to extend into the right-of-way are not considered off-site signs.
  2. No sign shall interfere with the required vision clearance area.
  3. Signs placed on or affixed to vehicles and/or trailers which are parked in the

- public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to display the sign are prohibited.
4. The area of a sign shall be the area of the smallest rectangle required to encompass the outside of all words, numbers, letters, logos and symbols.
  5. Electronic displays or readerboards are prohibited, except for time and temperature signs as specifically approved by the Planning Commission.
  6. Manually changed readerboards are prohibited except the following:
    - a. Gas station price signs;
    - b. An eating and drinking establishment may have one erasable sign, provided that it does not exceed six square feet in area and it does not intrude into the right-of-way.
    - c. A church may have a bulletin board not exceeding ten (10) square feet in area, provided it has been approved by the Planning Commission as part of the Conditional Use.
  7. When the angle of a double-sided sign is less than 10 degrees, only one side will be calculated in the sign area.
  8. Signs, except as otherwise specifically allowed herein, are prohibited in the public right-of-way.
  9. No freestanding sign shall exceed a height of fifteen (15) feet, measured from existing grade to the highest point of the sign.
  10. No sign attached to any building shall exceed twenty (20) feet in height, or the height of the building, whichever is less.
  11. No single sign shall exceed forty eight (48) square feet in size.
  12. Except as otherwise allowed in this chapter, all signs shall comply with the building setback requirements.
  13. No sign projecting from a structure or mounted on a pole shall be less than eight feet above the ground at its lowest point.
  14. No freestanding signs shall be permitted in the public right-of-way, except as otherwise specifically allowed in this Chapter.
  15. Signs attached to a building and projecting into a public right-of-way shall require a temporary right-of-way permit approved by the City Manager, or designate.
  16. No sign, or portion thereof, shall be so placed as to obstruct any fire escape or human exit from any portion of a building.
  17. The total exterior sign area for a building shall not be affected by the number of businesses located in the building. The building owner is ultimately responsible for allocating this allowed area to the businesses located therein and for insuring compliance of sign area limitations in the case of multiple businesses being located on a property.
  18. Nuisances or Hazardous Conditions prohibited:
    - a. The illumination of signs shall be designed to eliminate negative impacts on surrounding right-of-way and properties.
    - b. No sign or light source shall create a distraction, hazard, or nuisance.
    - c. Signs shall not be used at a location or in a manner so as to be confused with, or construed to be, traffic control devices.
  19. A Subdivision or Planned Unit Development may have one directional/identification sign at each entrance, not to exceed twenty square feet each, provided that the sign is approved by the Planning Commission as part of a Subdivision or Planned Unit Development approval. If approved by the Planning Commission, such signs may be located in the right-of-way.

20. A multi-family unit complex may have one directional/identification sign, not to exceed one square foot for each unit, to a maximum of twenty (20) square feet, provided that the sign is approved by the Planning Commission as part of the project approval. If approved by the Planning Commission, such signs may be located in the right-of-way.
21. All signs shall be securely fastened to their supporting surface or structure.
22. Flags and windsocks are permitted provided that:
  - a. The lowest point of the flag or windsock, when hanging in its fully relaxed condition shall be a minimum of six (6) feet above any sidewalk or driveway;
  - b. A flag or windsock with no advertising or which designates "open" or "closed" will not be considered in calculating the sign area.
  - c. A flag or windsock which advertises a business, service, or product will be included when calculating the maximum sign allowed.
23. Other than flags and windsocks as otherwise allowed, no mechanical or moving signs shall be permitted. No sign shall contain or be illuminated by any flashing, blinking, moving, or rotating light.
24. Attaching handbills to fences, posts, trees, buildings, or any other surface is prohibited within the City of Bandon.
25. Murals exceeding forty-eight square feet in area shall require approval of the Planning Commission. The portions of a mural which have reference to a business, service, or product will be included when calculating the total sign area.
26. All signs shall be of professional quality and shall be well-maintained.
27. An eating and drinking establishment may attach to a window a menu, identical to those distributed to customers. Such a menu will not be used in the calculation of total sign area allowed.
28. Incidental signs displayed strictly for a direction, safety, or the convenience of the public, including but not limited to signs that identify restrooms, public telephones, parking area entrances, and exits are allowed. Individual signs in this category shall not exceed two square feet in area, and shall not be considered in calculating the total sign area allowed.
29. Public memorials, cornerstones and plaques may be allowed provided they are approved by the City.

17.90.040 Temporary Signs

- A. Temporary signs shall not be illuminated.
- B. Temporary signs and banners shall be well maintained at all times and shall be removed promptly when the approved display period has ended.
- C. One temporary sign, not to exceed four square feet in area advertising the sale, lease, or rental of a single lot or parcel may be allowed. The sign shall be removed upon sale of the property.
- D. One temporary sign per tract of land or subdivision advertising the sale of the tract, or lots in the tract may be allowed. The sign shall not exceed thirty-two square feet in area and shall be a minimum of twenty feet from the right-of-way. The sign shall be removed upon sale of the property.
- E. Signs on a construction site where a valid Zoning Compliance and building permit is in effect, designating the contractor, architect, project manager, lending institution and other firms relating to the construction, may be allowed, provided that all such signs shall be contained within a single twenty square foot rectangle.

- F. For the purposes of determining the allowable location of temporary signs where the actual right-of-way/property line is undetermined, the right-of-way/property line shall be considered to be a line two feet from the outside edge of the sidewalk or, where no sidewalk is present, a line six feet from the edge of the pavement.
- G. In addition to the signs specifically allowed pursuant to this section, temporary, on-site signs may be allowed by the City Manager or his designate, provided the total allowance for any property shall not exceed 90 calendar days per year.
- H. In addition to the on-site sign allowance, one additional off-site sign may be permitted for each commercial use at the discretion of the City Manager by permit:
  - 1. An off-site sign shall be located no farther than two hundred (200) feet from the commercial use to which it refers, and must be located within the same zone as the commercial use to which it refers;
  - 2. The maximum height of an off-site sign shall be three (3) feet;
  - 3. The maximum area of an off-site sign shall be four (4) square feet;
  - 4. No off-site sign shall be located in the City right-of-way except one temporary directional sign to indicate availability of fresh fish and/or seafood for sale in the water zone may be allowed along Highway 101.
  - 5. No off-site sign shall be allowed to be displayed for more than 90 calendar days per calendar year.

17.90.050 Political Signs

- A. Political signs advertising a candidate or a ballot issue shall be allowed only on private property and with the owner's written permission, during a political campaign for a period of sixty days prior to the election in which such candidates or issues are to be voted upon, and shall be removed within 2 days after the election.
- B. An individual sign shall not exceed four square feet in area.
- C. For the purposes of determining the allowable location of political signs where the actual right-of-way/property line is undetermined, the right-of-way/property line shall be considered to be a line two feet from the outside edge of the sidewalk or, where no sidewalk is present, a line six feet from the edge of the pavement.

17.90.060 Non-conforming Signs and Structures

- A. A non-conforming sign may not be modified in any way that results in a more non-conforming condition.
- B. Maintenance and repairs such as cleaning, painting, or replacing damaged structural portions of a non-conforming sign are allowed.
- C. If a nonconforming sign is replaced by a new sign, the new sign shall conform to the requirements of this chapter.
- D. If a sign is discontinued for a period of one year, the new sign will conform to the requirements of this chapter.
- E. Any sign poles, frames or other means of support for a sign no longer in use shall be removed prior to approval of any new sign.

- F. If a sign is destroyed or removed by any cause, it shall be replaced by a conforming sign.

17.90.070 Residential Zones (R-1, R-2,)

A. Permitted Signs

- 1. One non-illuminated nameplate, not to exceed two square feet in area.
- 2. House numbers.

17.90.080 Controlled Development Zones (CD-1, CD-2, CD-3)

A. Permitted Signs for Residential Uses

- 1. One non-illuminated nameplate, not to exceed two square feet in area.
- 2. House numbers.

B. Permitted Signs for Commercial Uses

- 1. A commercial sign shall require approval by the Planning Commission through the Conditional Use process.
- 2. Total area of all exterior sign allowed on the property shall not exceed one square foot for each two linear feet of street frontage.
- 3. A sign shall be set back ten (10) feet from any adjoining lot used for residential purposes.

17.90.090 Controlled Development Residential Zones (CD-R1, CD-R2)

A. Permitted Signs

- 1. One non-illuminated nameplate, not to exceed two square feet in area.
- 2. House numbers.

17.90.100 Old Town (C-1) and Architectural Review Overlay (AR)

- A. Exterior Signs Requiring a Certificate of Appropriateness. Exterior signs within the Architectural Review Overlay Zone of this section must receive a COA before installation or before any change in design, size, color(s), or location is made. Signs on properties in the C-2 and LI zones shall be exempted from the architectural review overlay zone sign regulations, but shall be subject to the sign regulations applicable to the underlying zone.

- 1. Criteria. In considering applications for COA's, signs shall be reviewed for their compliance with the following requirements:
  - a. Graphics: These shall be clear, legible and of a professional quality.
  - b. Colors: Colors used for exterior signs shall be from the previously approved color chart or receive approval from the Planning Commission through the ARB application process.
    - (1) Each building shall be allowed a total exterior sign area for the front or facade of the building equal to ten (10) percent of the facade area of the building.
    - (2) On the side and back exterior walls of buildings, signs equaling five percent of the wall's area can be permitted. These signs must be flush-mounted parallel to the wall.
  - c. Internally illuminated signs are prohibited. Neon tubing signs shall not be considered internally illuminated signs.
  - d. No part of any sign shall extend above the roofline or the top of the facade or marquee, whichever is higher.

- e. In the ARB overlay a free-standing sign shall not exceed fifteen (15) feet above grade.
- f. Trademarks or symbols: Signs which display the symbol, slogan or trademark of any product or business other than the business or businesses occupying the site are prohibited.
- g. A nameplate for a residence not exceeding one square foot in area is allowed and shall not require a Certificate of Appropriateness.

17.90.110 General Commercial (C-2)

A. Permitted Signs

- 1. In the case of a property with a single street frontage, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet of lot frontage on that street.
- 2. In the case of a property on a corner, or with multiple street frontages, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet along the primary street (which shall be determined by the property owner), plus one (1) square foot for each two (2) linear feet along the other secondary street(s), provided those additional signs are located along the respective secondary street(s).
- 3. One temporary directional sign to indicate availability of fresh fish and/or seafood for sale in the water zone may be allowed along Highway 101, provided that:
  - a. The sign does not exceed twelve square feet;
  - b. The sign has been placed on private property, with the written permission of the property owner;
  - c. The sign has been approved by the City Manager, or designate, to assure that it does not constitute a safety, pedestrian, or vehicular hazard.
- 4. A sign shall be set back at least ten (10) feet from an adjoining residentially zoned lot.
- 5. Portions of this zone located within the Architectural Review Overlay zone shall also be required to comply with the Architectural Review Overlay regulations.

17.90.120 Water Zone (W)

- A. Temporary signs and/or banners to indicate availability of fresh fish and/or seafood for sale may be allowed on individual water craft provided that the sign or banner does not exceed twenty-four square feet in size.

17.90.130 Marine Commercial (C-3)

A. Permitted Signs

- 1. In the case of a property with a single street frontage, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet of lot frontage on that street.
- 2. In the case of a property on a corner, or with multiple street frontages, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet along the primary street (which shall be determined by the property owner), plus one (1) square foot for each two (2) linear feet along the other secondary street(s), provided those additional signs are located along the respective secondary street(s).
- 3. A sign shall be set back at least ten (10) feet from an adjoining residentially zoned lot.

4. Portions of this zone located within the Architectural Review Overlay zone shall also be required to comply with the Architectural Review Overlay regulations.

17.90.140 Light Industrial (LI), Heavy Industrial (HI), and Woolen Mill Overlay (WM)

A. Permitted Signs

1. In the case of a property with a single street frontage, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet of lot frontage on that street.
2. In the case of a property on a corner, or with multiple street frontages, the total area of all signs shall not exceed one (1) square foot for each one (1) linear feet along the primary street (which shall be determined by the property owner), plus one (1) square foot for each two (2) linear feet along the other secondary street(s), provided those additional signs are located along the respective secondary street(s).
3. A sign shall be set back at least ten (10) feet from an adjoining residentially zoned lot.
4. Portions of this zone located within the Architectural Review Overlay zone shall also be required to comply with the Architectural Review Overlay regulations.



## Chapter 17.92

### CONDITIONAL USES

#### Sections:

- 17.92.010 Authorization to grant or deny conditional uses.
- 17.92.020 Authorization to impose conditions.
- 17.92.030 Existing uses.
- 17.92.040 Approval standards for conditional uses.
- 17.92.050 Conditional use cannot grant variances.
- 17.92.060 Application for a conditional use.
- 17.92.070 Major modifications to approved plans.
- 17.92.080 Minor modification(s) of a conditional use permit.
- 17.92.090 Standards governing conditional uses.
- 17.92.100 Time limits on meeting physical improvement requirements and conditions.

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

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

#### 17.92.020 Authorization to impose conditions.

In approving an application for a conditional use or the modification an existing and functioning conditional use, the city may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which the city considers necessary to assure that the use is compatible with other uses in the vicinity and to protect the city as a whole. These conditions may include but are not limited to:

- A. Changing the required lot size or yard dimensions;
- B. Limiting the height of the building(s);
- C. Controlling the location and number of vehicle access points;
- D. Requiring additional right-of-way areas or changing the street width;
- E. Requiring public improvements, including, but not limited to streets, sidewalks, sewer and water line extensions, and bike paths;
- F. Changing the number of off-street parking and loading spaces required;
- G. Limiting the number, size and location of signs;
- H. Requiring diking, fencing, screening or landscaping to protect adjacent or nearby property;
- I. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
- J. Limiting the hours, days, place and manner of operations;
- K. Limiting or setting standards for the location and intensity of outdoor lighting;
- L. Setting requirements on the number, size, location, height and lighting of signs;
- M. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

#### 17.92.030 Existing uses.

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

17.92.040 Approval standards for conditional uses.

The approval of all conditional uses shall be consistent with:

- A. The comprehensive plan;
- B. The purpose and dimensional standards of the zone except as those dimensional standards have been modified in authorizing the conditional use permit;
- C. That the site size and dimensions provide adequate area for the needs of the proposed use;
- D. That the site size and dimensions provide adequate area for aesthetic design treatment to mitigate possible adverse effect from the use of surrounding properties and uses;
- E. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and natural features;
- F. All required public facilities and services have adequate capacity to serve the proposal, and are available or can be made available by the applicant;
- G. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the permitted uses listed in the underlying zoning district;
- H. All other requirements of this title that apply.

17.92.050 Conditional use cannot grant variances.

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

17.92.060 Application for a conditional use.

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

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

- A. Twelve (12) copies of the site development plan(s) drawn to scale and necessary data or narrative which explains how the development conforms to the standards;
- B. The required fee;
- C. The conditional use plan, data and narrative shall include the following:
  - 1. Existing site conditions,
  - 2. A site plan for all proposed improvements,
  - 3. A grading plan,
  - 4. A landscape plan,
  - 5. Architectural elevations of all structures,
  - 6. A sign plan,
  - 7. A copy of all existing and proposed restrictions or covenants;
- D. In the case where any or all of the above are unnecessary, as in the case of a change of use in an existing structure, the planning director shall determine which items in subsection (C)(1) through (7) of this section will not be required for application. The planning commission may request additional items if they determine that these additional items are necessary to understand and make a decision on the application.

17.92.070 Major modifications to approved plans.

- A. An applicant may request approval of a modification to an approved plan by:
  - 1. Providing the planning director (director) with five copies of the proposed modified conditional use plan;
  - 2. For all exhibits larger than eleven (11) inches by seventeen (17) inches, twelve (12) copies are required;
  - 3. Providing a narrative addressing the proposed changes as listed in subsection B of this section;
- B. The director shall determine that a major modification has resulted if one or more of the changes listed below have been proposed:
  - 1. A change in land use;
  - 2. An increase in dwelling unit density;
  - 3. A ten (10) percent change in the ratio of the different types of dwelling units to the number of units;
  - 4. A change in the type of commercial or industrial structures;
  - 5. A change in the type and location of access ways and parking areas where off-site traffic would be affected;
  - 6. An increase in the floor area proposed for nonresidential use by more than ten (10) percent where previously specified;
  - 7. A reduction of more than ten (10) percent of the area reserved for common space and/or usable open space;
  - 8. A reduction of specified setback requirements by more than twenty (20) percent;
  - 9. An elimination of project amenities by more than ten (10) percent where the plan specified they were to be provided, such as:
    - a. Recreational facilities,
    - b. Screening, or
    - c. Landscaping provisions;
  - 10. A ten (10) percent increase in the approved density; or
  - 11. Any modification to conditions imposed at the time of the approval of the conditional use permit.
- C. Upon the director's determination that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application for a conditional use permit.
- D. The director's decision may be appealed as per Section 17.124.010.

17.92.080 Minor modification(s) of a conditional use permit.

- A. Any modification that is not within the description of a major modification as provided in Section 17.92.070(B) shall be considered a minor modification.
- B. A minor modification shall be approved, approved with conditions or denied following the director's review based on the findings that:
  - 1. No provisions of this title will be violated; and
  - 2. The modification is not a major modification.
- C. Procedures for the notice of the director's decision and the appeal process are contained in the zoning ordinance. The decision may be appealed as per Section 17.124.010. (Amended during 2000 codification.)

17.92.090 Standards governing conditional uses.

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

- A. Yards. In any zone, additional yard requirements may be imposed.
- B. Height Exception for Churches and Governmental Buildings. In any zone where offered as a conditional use, a church or governmental building may be built to exceed the height limitation of the zone in which it is located to a maximum height of fifty (50) feet if the total floor area of the building does not exceed one-and-a-half times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.
- C. Limitation on Access to Property. The planning commission may limit vehicle access from a conditional use to a street.
- D. Signs. See Chapter 17.90 Signs
- E. Church. A church may be authorized as a conditional use after consideration of the following factors:
  1. Sufficient area provided for the building;
  2. Required yards and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses with additional lot area required);
  3. Location of the site relative to the service area of the church;
  4. Probable growth and growth needs;
  5. Site location relative to land uses in the vicinity and adequacy of access from principal streets, together with the probable effect on traffic volumes of abutting and nearby streets.
- F. Public Utility or Communication Facility. A public utility or communication facility such as a substation, pumping station, radio or television studio or transmitter, or a utility transmission line shall require an easement or right-of-way twenty (20) feet or more wide. In considering an application for a public utility facility, the planning commission shall determine that the site, easement or right-of-way is located so as to best serve the immediate area, and in the case of a right-of-way or easement, will not result in uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping station and similar gear shall be so located, designed and installed as to minimize their effect on scenic values.
- G. Trailer, Recreational Vehicle, Mobile home or Manufactured Home Park (herein referred to as "park"). A park may be permitted as a conditional use provided it meets the requirements of the State of Oregon. In addition, the following minimum standards shall apply:
  1. Parking Space Requirement. A parking space shall be provided for each site in the park. In addition, guest parking spaces shall also be provided in every park within two hundred (200) feet of the sites served and at a ratio of one parking space for each two sites. Parking spaces shall have durable and dustless surfaces adequately maintained for all weather use and properly drained.
  2. Fencing and Landscaping. A sight-obscuring fence or hedge not less than six feet high shall enclose the park except at points of ingress and egress and at vision clearance areas. A build-up fence, as distinguished from an evergreen hedge, shall be so located as to conform to front and side yard requirements of the zone and suitable landscaping shall be provided in the required yards.
  3. Area. The minimum area for a park shall be forty thousand (40,000) square feet. The average area of sites within a park shall be not less than two thousand (2,000) square feet, exclusive of washrooms, recreation areas, roadways and other accessory facilities. No site shall be less than one thousand six hundred (1,600) feet in area.
- H. Multifamily Housing. When considering a conditional use for multifamily housing,

conditions shall not be placed which would exclude needed housing, unnecessarily decrease density, or allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delays.

- I. Drive-Up Uses. Drive-up uses are a conditional use in the general commercial zone. All drive-up uses shall comply with the following provisions:
1. All drive-up uses shall provide at least two designated parking spaces immediately beyond the service window to allow customers requiring excessive waiting time to receive service while parked.
  2. All drive-up uses shall provide a means of egress for vehicular customers who wish to leave the waiting line.
  3. The grade of the stacking area shall be flat or downhill to eliminate excessive fuel consumption.
  4. The drive-up shall be designed to provide natural ventilation for dispersal of exhaust fumes.
- J. Bed and Breakfasts and Bed and Breakfast Inns. Bed and breakfasts and bed and breakfast inns are conditional uses in the CD-1 and CD-2 zones and they shall comply with all of the provisions pertaining to vacation rentals as listed in subsection K of this section.
- K. Vacation Rental Dwellings. Vacation rental dwellings are a conditional use in the CD-1 and CD-2 and CD-3 zones, and are subject to the requirements of this chapter. A dwelling may only be eligible for VRD status provided that it is an existing single-family detached dwelling, and that less than 30% of the dwellings on property within 250 feet of the subject property are VRD's.

All vacation rental dwelling shall comply with the following provisions.

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 of 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 at or above the level of 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.
6. There are provisions for regular garbage removal from the premises;
7. There shall be a designated local management person immediately available to handle complaints and problems as they arise. The name and contact information of the designated local management person shall be kept on file in the Police Department.
8. Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done. (Amended during 2000 codification.)
9. If the VRD activity ceases for a period of one year, as determined by the transient occupancy tax receipts, the VRD permit becomes null and void with no further proceedings.
10. Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people.

17.92.100 Time limitation

- A. A conditional use permit shall become void one (1) year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permit activity is being regularly conducted on the premises.
- B. The Planning Commission may extend a use permit for an additional period of one (1) year, subject to the requirements of this title.
- C. A conditional use permit shall become void if the use is discontinued for a period of one year.

17.92.110 Violation of conditions

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

## Chapter 17.94

### Commercial Design Standards

#### Sections:

17.94.010	Purpose
17.94.020	Scope
17.94.030	Pre-application conference
17.94.040	General Provisions
17.94.050	Non-conforming Buildings
17.94.060	Landscaping
17.94.070	Lighting
17.94.080	Parking Lots
17.94.090	Site Design, Building Design, Massing, Materials
17.94.100	Signage

#### 17.94.010 Purpose

The purpose of this chapter is to promote growth management and the planning of development to protect resources and maximize Bandon's economic assets and advantages. Commercial Design Standards are intended to reflect Bandon's unique historic landscape and architectural character while encouraging the visual quality and continuity of commercial development. The standards will provide greater visual design interest, pedestrian-oriented site design, compatibility with uses and development on adjacent land, and a greater likelihood of building reuse. As future growth and urbanization occur, certain measures will be required to preserve the quality of life of Bandon's residents and the City's attraction to visitors.

#### 17.94.020 Scope

The Commercial Design Standards shall apply to the following:

- A. All commercial development in any Light Industrial (LI) zone abutting Highway 101, and in the Commercial 2 (C-2).
- B. New construction of commercial buildings or groups of buildings exceeding 2,500 square feet of gross floor area.
- C. New construction of auto or equipment dealerships, auto service stations, and fast food restaurants of any footprint size.
- D. Buildings less than 5,000 square feet, and existing at the time this ordinance is adopted, are exempt from these requirements. However, this chapter shall apply to additions to these existing buildings which would result in a building greater than 5,000 square feet.
- E. For the purposes of this chapter the total square footage of buildings, or groups of commercial buildings less than twenty apart, which are served by a single or connected parking lot shall be calculated as one building.

#### 17.94.030 Pre-application

- A. Developers of buildings affected by this section shall meet with City Planning Staff in a pre-application review.

17.94.040 General Provisions

- A. These Design Standards include, but are not limited to:
  - 1. Landscaping,
  - 2. Building design, mass, scale, use of materials,
  - 3. Lighting.
- B. Dumpsters, trash enclosures, and other appurtenant structures shall be screened with landscaped areas or constructed of materials and finishes which are consistent with the main building.

17.94.050 Non-conforming Buildings

- A. If an existing building becomes non-conforming as a result of the adoption of these standards it may not be structurally modified unless the modification includes elements which result in a more conforming building.
- B. The square footage of the original non-conforming building may be increased a maximum of 20% if the modification includes elements which result in a more conforming building.
- C. If the square footage of a non-conforming building is increased more than 20% the resulting building, parking lot and all appurtenant structures shall conform to this chapter.

17.94.60 Landscaping

A. General:

- 1. All landscaping plans shall be approved by the approving authority and installed and subsequently maintained in good condition and in perpetuity by the owner of the property. Maintenance shall include, but not be limited to, watering, pruning, trimming, mowing, debris and weed removal, and if necessary replanting or replacement of failed landscape elements. Failure to maintain the landscaping in good condition shall be considered a nuisance and subject to citation to Municipal Court under Section 8.08 of the Bandon Municipal Code.
- 2. Building facades which face a street or sidewalk, shall have a four foot wide landscaping strip separating the building from the street and/or sidewalk. This section shall not apply to building facades separated from a street or sidewalk by a parking lot.
- 3. Landscape density shall be uniform throughout the site and include site amenities such as focal points, public trash receptacles, low wattage lighting, and water features, for areas around a building over 2,500 square feet.
- 4. Trees and shrubs used shall be selected from varieties compatible with the Southern Oregon Coast climate and which do not have destructive root systems which could damage either buildings or paved surfaces.
- 5. Trees shall be planted landscaped areas such that the tree trunk is at least 3 ft. from any curb or paved area.
- 6. The landscaped area shall be planted with shrubs and/or living ground cover to assure 50% coverage within 1 year and 90% coverage within 5 years. (Landscaped area is either covered with low lying plants or overhung by the branches of shrubbery).
- 7. All bare earth shall be covered with bark, mulch, landscape rock, or other similar landscaping material to prevent dust and soil erosion.
- 8. Landscaping shall conform to the vision clearance standards of the underlying zone.



B. Screening

1. Dense landscaping and/or architectural treatment shall be provided to screen features such as storage areas, trash enclosures, transformers, generators, propane tanks, and other appurtenant structures.
2. Features used to screen electrical equipment shall be approved by the electric department.
3. Where property abuts a residential zone, a fence, a minimum of six feet in height shall be installed on the property line to minimize adverse effects of the development on neighboring residences.
4. Perimeter fencing, security fencing, or gateways shall be constructed of materials which are compatible with the design and materials used throughout the project.
5. Razor wire and electric fencing, are prohibited.
6. Chain link fencing, with slats, may be allowed provided it is used as a screening element and the slats are a material consistent with the main building.
7. All rooftop mechanical equipment, including satellite or other telecommunications equipment, shall be screened from public view at building grade.

17.94.070 Lighting

- A. Night lighting and security lighting shall be shielded to ensure that there is no off-site glare or skyward illuminations.
- B. Parking lot and landscape lighting shall be low to the ground, to reduce glare and illuminate all pedestrian walkways.
- C. Light standards (poles) shall not exceed the height of the building at any time and shall not exceed 14 ft. in height along pedestrian pathways.
- D. All other outdoor light fixtures emitting 2,050 lumens or more shall be shielded as follows:
  1. Within 50 ft. of the property boundary, light fixtures shall be full-cutoff.
  2. All other outdoor lighting fixtures shall be semi-cutoff or full-cutoff.
- E. Location and type of lighting shall be submitted in a lighting plan.

17.94.080 Parking Lots

- A. General:
  1. Perimeter landscape strips, not less than five feet in width, shall be required for all parking lots in order to screen and/or buffer the parking lot from abutting streets or residential areas. Perimeter landscaping shall consist of plants, a minimum of two feet in height and/or trees a minimum of five feet in height and spaced no more than 20 feet apart.
- B. Parking lots with more than 40 spaces:
  1. Must provide landscaped islands and walkways which break up the visual expanse of blacktop and provide safe pedestrian areas.
  2. For every parking space there shall be 20 sq. ft. of landscaping within the parking lot. Perimeter landscaping or landscaping required for visual screening or buffering shall not be included in the 20 sq. ft. requirement. Landscaping required for walkways shall be included in this calculation.
  3. There shall be a minimum of one tree for every 250 square feet of landscape.

17.94.090 Site Design, Building Design, Massing, Materials

A. Buffering

- 1. In the event of a common property line, a side or rear yard abutting a residential zone shall be at least twenty (20) feet plus one foot for each two feet by which the height of the building exceeds twenty-eight (28) feet.

B. Connectivity

- 1. The site design must provide direct vehicular connections and safe street crossings to abutting properties.

C. Pedestrian walkways.

In addition to the section on parking lot landscaping, the following shall apply:

- 1. Continuous pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all retail buildings on the site.
- 2. Walkways shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such walkways shall be located at least 4 ft. from the facade of the building with planting beds in between facade and the walkway for foundation landscaping, except where features such as covered passageways or entryways are part of the facade.
- 3. Pedestrian walkways provided in conformance with 17.94.090, C, 2, above shall provide weather protection features such as awnings or covered passageways within 30 ft. of all customer entrances.
- 4. The site design shall provide convenient pick-up and drop-off areas for cars and transit vehicles.

D. Building Facades

- 1. Front and publicly visible building facades greater than 50 ft. in length, measured horizontally, shall incorporate architectural projections or recesses having a depth of at least three percent (3%) of the length of the facade and extending for at least 20 percent (20%) of the length of the facade. Such architectural features shall be incorporated into exterior wall design at least every 50 horizontal feet.
- 2. Facades facing a street shall have covered passageways, windows, columns, awnings or other such features along at least 60 percent (60%) of their horizontal length.
- 3. Windows, when used as a design feature:
  - a) The size and total area of required windows shall be determined by the facade area of the building.
  - b) Building facades facing a street shall incorporate window areas equal to a minimum of ten percent of the facade area.
  - c) When a building provides multiple storefronts or entry ways to individual businesses, each storefront space shall have window areas equal to 10% of the business facade.
- 4. Facades must include a repeating pattern that includes at least three of the following elements, one of which must repeat horizontally:
  - a) Color change;
  - b) Texture change;
  - c) Material change;
  - d) Architectural or structural bays, provided through a change in plane of at least 12 inches in width, such as an offset, reveal or projecting rib. All elements shall repeat at intervals no more than 30 feet horizontally and vertically.

E. Entrances

1. All public entrances shall be covered. The minimum width of coverings shall be the width of the entry doors and shall be a minimum of ten feet in length.
2. Where multiple businesses will be located within the same building, the main customer entrance to the building shall conform to the requirements of this Section.
3. Delivery and service bays shall be located in rear of the building, unless the approving authority determines the configuration to be impractical. Ingress and egress of service drives shall be clearly posted.
4. At least one facade shall feature a customer entrance. The entrance shall be on a facade that faces a street with pedestrian walkways or main parking lot. All entrances shall be architecturally prominent and clearly visible from the street.
5. Each establishment shall have clearly visible customer entrance areas. The design of facades with customer entrances, as well as those abutting public streets, shall be enhanced with a least one feature from a minimum of three of the following groups:
  - a) Group 1
    - 1) Canopies
    - 2) Awnings
    - 3) Porticos
    - 4) Overhangs
  - b) Group 2
    - 1) Recesses/projections
    - 2) Architectural details, such as tile and moldings, which are integrated into the building and design
    - 3) Windows and/or display windows
  - c) Group 3
    - 1) Covered walkways
    - 2) Arches
  - d) Group 4
    - 1) Raised corniced parapets over entrances
    - 2) Peaked roofs
  - e) Group 5
    - 1) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting
    - 2) Public plazas

F. Materials and Colors

1. More than 75% of exterior building materials shall include brick, fire resistant cedar shakes and shingles, beveled or ship-lap or other narrow-course horizontal boards or siding, vertical board and batten siding, durable stucco, rock, stone, or tinted and textured concrete masonry units. Other materials may be permitted if approved by the approving authority.
2. Visible exterior building materials shall not include smooth-faced concrete block, smooth-faced tilt-up concrete panels, or unarticulated board siding (e.g., T1-11 siding, plain plywood, sheet pressboard) unless approved by the approving authority.
3. If approved by the approving authority, building trim and accent areas may feature primary or other bright colors.

G. Roofs

1. Roofs shall have no less than two of the following features:
  - a) Parapets, the average height of which shall not exceed 15 percent (15%) of the height of the supporting wall, unless greater heights are necessary to screen HVAC equipment. Parapets shall not at any point exceed one-third of the height of the supporting wall. Parapets shall feature three dimensional cornice treatment and shall not be of a constant height for a distance greater than 150 ft.
  - b) Overhanging eaves or cornices, extending at least 3 ft. past the supporting walls.
  - c) Sloping roofs with three or more slope planes. Sloping roofs shall:
    - 1) not exceed the average height of the supporting walls; and
    - 2) have an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run; and
    - 3) have a vertical rise less than or equal to one foot for every one foot of horizontal run.

H. Auto Dealerships

1. Special attention shall be directed toward the site landscaping which is visible from the street. Trees to provide shade and visual relief shall be located within the dealership (when reasonably practical with auto display) as well as on the site perimeter. The outdoor vehicle display parking areas may remain open, if balanced by substantial landscaping and tree planting on other visually prominent areas of the site.
2. The service area and/or service bays shall be screened or sited so they are not visible from the street.
3. Vehicles under repair shall be kept inside a building or in an area which is screened from views from the street.
4. Service areas shall provide adequate queuing space that does not impede vehicle circulation through the site or result in vehicles stacking into the street.

I. Fast Food Restaurants

1. Highly contrasting color schemes are prohibited. A new free-standing restaurant building shall be sited and designed to be compatible with the character of the surrounding neighborhood. If the restaurant will occupy a pad within a shopping center, the building shall be designed to be consistent with the theme or design of the center.
2. Free standing restaurant buildings shall be designed and detailed consistently on all sides.
3. Outdoor seating areas, play equipment, and perimeter fencing shall all be reviewed by the appropriate authority for compatible and attractive design that is integrated with the main building architecture.
4. Cooking odors shall be eliminated to the extent feasible by installation of best available control technology. Project applications shall include information on proposed ventilation systems and odor scrubbing technology to be used.
5. Businesses shall comply with the sign ordinance limitations.

J. Auto Gas/Service Station Guidelines

1. Auto service station site development standards include:
  - a) Site area minimum if 15,000 square feet.
  - b) Minimum of 15% if site to be landscaped (as specified in Section 17.94.060).
  - c) Maximum of 35% of street frontage devoted to curb cuts with remainder

- d) in landscaping
  - e) Maximum of 18% of site with canopy cover.
  - e) Pump island design with a minimum of two vehicle stacking behind vehicle parked at the pump closest to the exit and/or entrance driveway.
2. The site design for projects located at street corners shall provide some structural or strong design element to anchor the corner. This can be accomplished using a built element or with strong landscaping features.
  3. The on-site circulation pattern shall include adequate driving space to maneuver vehicles around cars parked at the pumps, with special attention to the circulation of vehicles not involved in the purchase of fuel.
  4. The amount of unrelieved pavement or asphalt area on the site shall be limited through the use of landscaping, contrasting colors and banding or pathways of alternate paver material. Extensive expanses of light grey concrete pavement shall be avoided.
  5. Building architecture shall be designed to provide an attractive appearance which is compatible with the surrounding area. Prefabricated buildings shall be substantially modified and embellished to create a project which meets the community standards. All architectural details should be related to an over all architectural theme.
  6. Separate buildings (canopy, carwash, cashiers booth, etc.) on the site shall have consistent architectural detail and design elements to provide a cohesive project site.
  7. Tall (13 feet or taller) tank vents shall be completely screened or incorporated into the building architecture.
  8. A car wash which is incorporated into the project shall be well integrated into the design. The car wash opening shall be sited so that it is not directly visible as the primary view from the street in to the project site. The site design shall also address the issues of off-site noise exposure, provision of adequate on-site underground drainage systems to keep water off public streets and improvements, and circulation vehicle stacking.
  9. Illumination should be concentrated on specific signage. Canopies shall not be illuminated. Light fixtures shall be recessed into the canopy and no glare shall be visible from the fixture. Yard lights shall be oriented downward.
  10. Dumpsters and service areas shall be screened. The wall materials and building styles shall match those used for the station buildings.

17.94.100 Signage

See Chapter 17.90 Signs

Chapter 17.96

OFF-STREET PARKING AND LOADING

Sections:

- 17.96.010 Applicability.
- 17.96.020 Off-street parking.
- 17.96.030 Off-street loading.
- 17.96.040 General provisions for off-street parking and loading.
- 17.96.050 Design requirements for parking lots.
- 17.96.060 Completion time for parking lots.
- 17.96.070 Vehicle access points.

17.96.010 Applicability.

In all zones, off-street parking and loading space shall be provided as set forth in this chapter.

17.96.020 Off-street parking.

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

Table 17.96.020

PARKING REQUIREMENTS FOR SPECIFIC USES

	Use	Parking Space Requirements
A.	Residential uses:	
	1. Single-family dwelling	Two spaces.
	2. Two- or multifamily dwelling units	Spaces equal to 1.5 times the number of dwelling units.
	3. Apartment house, rooming house or boarding house	Spaces for eighty (80) percent of the guest accommodations plus one additional space.
B.	Commercial/residential uses:	
	1. Hotel	One space per two guest rooms plus one space per two employees.
	2. Motel	One space per guest room or suite plus one additional space for the owner or manager.
	3. Club or lodge	Space to meet the combined requirements of the uses being conducted, such as a hotel, restaurant, auditorium, etc.

- C. Institutions:
1. Convalescent hospital nursing home, sanitarium rest home, or home for the aged One space per two beds for patients or residents.
  2. Hospital Spaces equal to 1.5 times the number of beds.
- D. Places of public assembly:
1. Church One space per four seats or eight feet of bench length in main auditorium.
  2. Library or reading room One space per four hundred (400) square feet of floor area per two employees.
  3. Preschool nursery or kindergarten (primary school) Two spaces per teacher.
  4. Elementary or junior high school One space per classroom plus one space per administrative employee or one space per four seats or eight feet of bench length in the auditorium or assembly room, whichever is greater.
  5. High school One space per classroom plus one space per administrative employee plus one space for each six students or one space per four seats or eight feet of bench length in the main auditorium, whichever is greater.
  6. Other auditorium or meeting room One space per four seats or eight feet of bench length.
- E. Commercial amusements:
1. Stadium, arena or indoor theater One space per four seats or eight feet of bench length.
  2. Bowling establishment without restaurant Eight spaces per alley plus one space per two employees.
  3. Bowling establishment with restaurant Ten (10) spaces per alley plus one space per two employees.
  4. Dance hall or skating rink One space per one hundred (100) square feet of floor area plus one space per two employees.
- F. Commercial:
1. Retail store, except as provided in subsection (F)(2) of this table One space per four hundred (400) square feet of floor area.
  2. Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture One space per six hundred (600) square feet of floor area.
  3. Bank or office (except medical and dental) One space per six hundred (600) square feet of floor area plus one space per two employees.
  4. Medical and dental office or clinic One space per three hundred (300) square feet of floor area plus one space per two employees.
  5. Eating or drinking establishment One space per two hundred (200) square feet of floor area.
  6. Mortuaries One space per four seats or eight feet of bench length

in the chapel.

G. Industrial:

1. Storage warehouse, manufacturing establishment, freight terminal One space per employee.
2. Wholesale establishment One space per employee plus one space per seven hundred (700) square feet of patron serving area.

17.96.030 Off-street loading.

- A. Passengers. A driveway designed for a continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) pupils.
- B. Merchandise, Material or Supplies. Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to handle adequately the needs of the particular use. Loading space that has been provided for an existing use shall not be eliminated if its elimination would result in less space than is required to handle adequately the needs of the use. Off-street parking areas used to fulfill the requirements of this title shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs.

17.96.040 General provisions for off-street parking and loading.

- A. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented which show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this title to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.
- B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements for comparable uses listed.
- C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of several uses computed separately.
- D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the city in the form of deeds, leases or contracts to establish the joint use.
- E. Off-street parking spaces for dwellings shall be located on the same parcel with the dwelling. Other required parking spaces shall be located not farther than five hundred (500) feet from the building or use they are required to serve, measured in a straight line from the building.
- F. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.



- G. Parking within required setback areas for residential uses:
  - 1. A maximum of three (3) motor vehicle parking spaces shall be allowed within the required front or street-side setback area, two (2) of which may be counted towards meeting the minimum number of required off-street parking spaces. Any such parking spaces must be located within a driveway surfaced with concrete, asphalt, gravel, or other material approved by the City.
  - 2. Motor vehicle parking within the required front or street-side setback area shall be located no closer than five (5) feet from any interior property line.
- H. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany any application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being met, including the following:
  - 1. Delineation of individual parking and loading spaces;
  - 2. Circulation area necessary to serve space;
  - 3. Access to streets and property to be served;
  - 4. Curb cuts;
  - 5. Dimensions, continuity and substance of screening;
  - 6. Grading, drainage, surfacing and subgrading details;
  - 7. Delineation of obstacles to parking and circulation in finished parking areas;
  - 8. Specifications as to signs and bumper guards;
  - 9. Other pertinent details. (Amended during 2000 codification.)

17.96.050 Design requirements for parking lots.

- A. Areas used for parking vehicles and for maneuvering shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.
- B. Except for parking in connection with dwellings, parking and loading areas adjacent to or within residential zones or adjacent to dwellings shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence or not less than five nor more than six feet in height, except where vision clearance is required.
- C. Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high and which is set back a minimum of four and one-half feet from the property line.
- D. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.
- E. A standard parking space shall be eight and one-half feet by nineteen (19) feet.
- F. Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- G. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of traffic and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service anticipated traffic. In no case shall access point of service drives to a street be less than one hundred (100) feet apart, measured from center to center. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers on street frontage not occupied by service drives.
- H. Driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and straight line joining said lines

through points thirty (30) feet from their intersection.

- I. All parking lots will meet requirements of the Americans with Disabilities Act.
- J. For standards not specifically cited in this title, additional dimensional standards for parking lot features shall be consistent with the most recent edition of Architectural Graphic Standards.
- K. For uses other than residential uses, one third of the required spaces may be compact spaces. Compact spaces shall be eight feet by sixteen (16) feet.
- L. For parking lots for motels, restaurants or retail businesses of more than twenty (20) spaces, five percent of the total number of spaces will be R.V. spaces at least ten (10) feet wide by thirty (30) feet long.

17.96.060 Completion time for parking lots.

Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the building inspector. If the parking space is not required for immediate use, an extension of time may be granted by the building inspector, providing a performance bond or its equivalent is posted equaling the cost to complete the improvements as estimated by the building inspector. If the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements constructed under the direction of the city.

17.96.070 Vehicle access points.

To promote public safety, the number of vehicle access points to arterial roads and highways shall be kept to a minimum. In reviewing applications for land divisions and discretionary permits, the planning commission shall limit the number of vehicular access points by requiring shared access, reserve strips, eliminating circle drives (with two access points) and taking other actions consistent with the directives of this chapter.

## Chapter 17.98

### OUTDOOR LIGHTING

#### Sections

- 17.98.010 Purpose
- 17.98.020 Scope
- 17.98.030 General Provisions
- 17.98.040 Lighting Adjacent to Wildlife Areas
- 17.98.050 Exceptions to the Full Cut-off Requirement
- 17.98.060 Prohibitions
- 17.98.070 Enforcement
- 17.98.080 Definitions
- 17.98.010 Purpose

Ordinance History: # 1594

## Chapter 17.100

### PLANNED UNIT DEVELOPMENT

#### Sections:

- 17.100.010 Purpose.
- 17.100.015 PUD uses and density.
- 17.100.020 PUD approval process; consolidated applications authorized.
- 17.100.025 Pre-application conference and public information meeting.
- 17.100.030 Application.
- 17.100.040 Limitation on application.
- 17.100.050 Hearing procedure.
- 17.100.060 Criteria for approval.
- 17.100.070 Planning Commission action.
- 17.100.080 Modifications to standards to be authorized.
- 17.100.090 Common elements and required open space.
- 17.100.100 Postponed architectural approval and final PUD plan approval.
- 17.100.110 Engineering construction plans and improvements.
- 17.100.120 Approval of final PUD plan; approval criteria.
- 17.100.130 Limitation on new application.
- 17.100.140 Surety agreement and bond.

#### 17.100.010 Purpose.

- A. The purpose of planned unit development approach is to a greater degree of flexibility, consistency and quality in the design of urban development than would otherwise be possible under the strict requirements of this Code. These provisions are intended to promote.
  - 1. creative and imaginative design for urban development in ways that encourage community identity, consistently high quality construction, and pedestrian orientation;
  - 2. the preservation, restoration and integration of important natural features such as

- forested areas, riparian corridors and wetlands;
- 3. economic and efficient use of urbanizable land through density transfer and clustering, while transitioning to the surrounding neighborhoods;
- 4. a mixture of land use and housing types that are thoughtfully planned and well-designed;
- 5. the preservation of views from existing developed areas, through the PUD, of scenic views and sites identified in the Comprehensive Plan.

B. Definition.

A Planned Unit Development (PUD) must be comprised of a parcel or parcels of 2 acres or greater in size unless the Planning Commission finds that because of a site's unique qualities or circumstances, the City would be benefitted by permitting a PUD there. A PUD will have a master development and design plan, and contain one or more residential clusters and common open space. Limited commercial and public uses may be included if such uses are primarily for the benefit of the proposed residential development. PUD's shall not be allowed west of Beach Loop Drive, excepting the Ocean View Care Center site, which may be developed as a PUD.

17.100.015 PUD uses and density.

Notwithstanding the requirements of this Title, the following uses and densities shall be permitted in accordance with this chapter:

A. Residential uses.

In all Residential (R) and Controlled Development (CD) zones, allowed uses include single-family dwellings, single-family attached dwellings, duplexes, and multi-family dwellings.

- 1. Multi-family dwellings shall not comprise more than 50% of the total number of housing units within the PUD.
- 2. The total number of dwelling units allowed shall be calculated by multiplying the gross acreage of the site by twelve (12).

B. Commercial uses.

Cumulatively, not more than 5% of the gross acreage may be devoted to commercial uses that serve the PUD and are allowed in the underlying zone.

C. Density bonus.

The applicant shall be allowed additional units beyond the twelve allowed units by providing an additional 7% open space, which may include public trails, for each additional unit. The total density shall not exceed 14 units per acre.

17.100.020 PUD approval process; consolidated applications authorized.

Approval of a PUD by the Planning Commission shall be a two-step process involving approval of a Preliminary PUD plan as the first step, and approval of a Final PUD plan as the second step.

A. Consolidation.

Applications for development permits and other planning actions may be consolidated with an application for a Preliminary PUD plan, except applications for comprehensive plan amendments and annexations.

B. Limitation.

Where use is made of the planned use development process as provided in this chapter, no building or other permit shall be issued for such development or part thereof until the planning commission has approved the Preliminary PUD plan.

17.100.025 Pre-application conference and public information meeting.

Prior to submission of a PUD application, the applicant shall participate in an application

conference and present the draft PUD proposal for public review and comment.

- A. Pre-application conference.  
The purpose of a pre-application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this chapter, and to determine which application materials must be submitted to constitute a complete application. This conference shall be required prior to the submission of an application.
- B. Public information meeting.  
The purpose of the information meeting is to present the draft proposal for general information and comment, to document the nature of neighborhood concerns, and to incorporate comments where possible into the design of the PUD before it is submitted to the city. Property owners within 250 feet of the PUD shall be provided written notice of the time and place of the meeting, and a site plan showing the draft proposal, at least one week before the meeting. The meeting shall also be advertised in a local newspaper. The applicant shall be responsible for providing a list of public comments and concerns expressed at the meeting, and generally state how the issues and concerns are being addressed.

#### 17.100.030 Application

The owner or his agent may make application for PUD approval by filing an application with the Planning Department. The application shall be accompanied by the following:

- A. A filing fee in an amount established by general resolution of the city council. No part of the fee shall be refundable.
- B. A current assessor's map with the boundaries of the proposed PUD identified.
- C. Preliminary PUD plan. All applications shall be accompanied by a general development plan (12 copies) prepared in accordance with Chapter 16.12. Additionally, such plans shall include preliminary plans for the provision of public access, water and sanitary sewer service and a proposal for the PUDs operative Covenants, Conditions and Restrictions (CCRs). The applicant shall also submit one copy of the Preliminary PUD Plan which has been reduced to a size suitable for photocopy reproduction.
- D. Written documents required include:
  - 1. A legal description of the total site proposed for development, including proof that the applicant owns all property to be included in the PUD.
  - 2. A statement of planning objectives to be achieved by the PUD through the particular approach proposed, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
  - 3. A development schedule indicating the approximate date when construction of the PUD, or stages of the PUD, can be expected to begin and be completed.
  - 4. A statement of the applicant's intentions with regard to future deeding, selling, leasing or renting of all or portions of the PUD, such as dwelling units, land areas, etc.
  - 5. Quantitative data for the following:
    - a. Total number and type of dwelling units.
    - b. Parcel sizes.
    - c. Lot coverage of buildings and structures.
    - d. Gross and net residential densities.
    - e. Total amount of nonresidential construction.
    - f. Geotechnical engineer or geologist report, as necessary.
    - g. Other studies as recommended by the Planning Director of the Planning Commission.

6. Documents indicating the short and long-term rights and responsibilities of the residents and developer for construction and maintenance of open space, common areas and facilities, and building maintenance.

E. Site plan and supporting maps.

A site plan and any maps necessary to show the major details of the proposed PUD must contain the following minimum information:

1. The existing site conditions including:
  - a. Contours at two-foot intervals; if slope is greater than 30%, five-foot intervals.
  - b. Watercourses.
  - c. Floodplains.
  - d. Unique natural features.
  - e. Existing vegetation types.
  - f. Identifying which features and vegetation will remain and which will be removed.
2. Proposed lot lines and plot designs.
3. The location and floor area size of all existing and proposed buildings, structures and other improvements, including:
  - a. Maximum heights.
  - b. Types of dwelling units.
  - c. Density per type of dwelling unit.
  - d. Nonresidential or commercial facilities.
  - e. Sketches of typical structures and improvements, including exterior finishes and materials.
  - f. Grading plan with contours at two-foot intervals.
4. The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, or similar public and semipublic areas.
5. The existing and proposed circulation system, including notation of proposed ownership (public or private) of arterial, collector, and local streets including:
  - a. Off-street parking areas.
  - b. Service areas.
  - c. Loading areas.
  - d. Major points of access to public rights-of-way.
6. The existing and proposed pedestrian circulation system, including its interrelation-ship with the vehicular circulation system, indicating proposed treatments of points of conflict.
7. The existing and proposed utility systems including but not limited to:
  - a. Sanitary sewers.
  - b. Storm sewers and drainage.
  - c. Location of looped water system sized for fire protection.
  - d. Location of underground electric, television and telephone lines.
8. A general landscape plan indicating the treatment and materials used for private and common open spaces.
9. Information on land areas adjacent to the proposed PUD sufficient to indicate the relationships between the proposed development and existing adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape.
10. The proposed treatment of the perimeter of the PUD, including screens, fences and walls.

11. Any additional information as required by the Planning Director that may be deemed necessary to evaluate the character and impact of the proposed development (Editorially amended during 2000 codification.)
- F. Architectural elevations and footprints for all proposed buildings shall be submitted for approval by the Planning Commission as part of the Preliminary PUD Plan. An applicant for a Preliminary PUD Plan may request to postpone the submission and approval of architectural plans for proposed buildings and have such plans approved by the Planning Commission at a later time after the Preliminary PUD Plan has been submitted, subject to the approval of the Planning Commission.
  - G. When the approval of architectural plans for buildings has been postponed, the Preliminary PUD Plan shall show the building envelopes of planned buildings in conceptual form and indicate their range of height(s). Such building envelopes shall reasonably anticipate and separately define the maximum extent of the footprint and height for each building in the PUD. Conceptual architectural drawings shall also be submitted.
  - H. A narrative description of the PUD which shall cover the following:
    1. The nature, planned use, future ownership and method of perpetual maintenance of all buildings and structures, accessways, land to be left in natural condition, or developed parks or open space.
    2. A list of all deviations from the strict provisions of this Code by citing each provision of the Code to be deviated from, followed by a brief explanation which covers the nature and extent of the deviation.
    3. A proposed development schedule which indicates the approximate date when construction of the PUD is expected to begin and end. If the PUD will be developed in phases, the development schedule for each phase shall be keyed to a plan that indicates PUD phasing boundaries.
    4. Such other pertinent information shall be included as may be considered necessary by the Planning Commission to make a determination that the contemplated arrangement or use makes it necessary and desirable to adopt regulations and requirements differing from those ordinarily applicable under this chapter.
  - I. Written findings of fact and conclusions of law which address the approval criteria listed in 17.100.060 and 17.100.080.
  - J. Documentation of the result of the public information meeting, including any changes to the proposed plans made as a result of the public information meeting.

17.100.040 Limitation on application.

No application shall be accepted for a use which will require a change of zoning district or zoning text unless said application is accompanied by an application for a zoning amendment as set forth in Chapter 17.116.

17.100.050 Hearing Procedure

A Planned Unit Development is a land use decision and shall be conducted in accordance with ORS 197.763.

17.100.060 Criteria for Approval

In granting approval for a PUD, the Planning Commission shall make its decision based on the following:

- A. The applicant has, through investigation, planning and programming, demonstrated the

soundness and economic viability of the proposal, the fact that it will result in a safe, functional and attractive development, and the ability to carry out the project as proposed.

- B. The proposal complies with transportation and public utilities requirements that are relevant to the property or properties upon which that development proposal is located and to the off-site facilities and services which are affected by the proposal, and all implementing ordinances of the city in terms of location and general development standards, except those for which a specific deviation has been approved under Section 17.100.080.
- C. The proposal will accrue benefits to the city and the general public in accordance with Section 17.100.010 (Purpose) by meeting the purposes sufficient to justify any necessary modifications to the zoning district.
- D. The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street rights-of-way improvements.
- E. Proposed development will occur on building sites with less than 20% slope as certified by a surveyor.
- F. The property is, or can be supplied at the time of development, with the following types of public facilities that are determined to be sufficient in their condition and capacity to support development of the property as anticipated by the PUD:
  - 1. Public sanitary sewerage collection facilities.
  - 2. Public domestic water distribution facilities.
  - 3. Storm drainage facilities.
  - 4. Public streets.
  - 5. Parks, recreation, or open space facilities as required in 17.100.090.In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of the whole PUD project, nothing in this criterion shall prevent the approval of an early phase of a PUD which can be supplied with adequate public facilities.
- G. In addition to the requirement in 17.100.015(B), proposed commercial development shall also:
  - 1. Support but not overwhelm the predominantly residential development.
  - 2. Not cause undue traffic congestion, not require additional off-street parking, and shall comply with the relevant requirements of the Transportation System Plan.
  - 3. Be attractively designed and functionally located so as to fit harmoniously into and have minimal adverse effects upon the adjacent or surrounding development.
- H. The PUD design preserves views to the greatest extent possible from abutting residential development, through the PUD site, to scenic sites and vistas identified in the Comprehensive Plan.
- I. If an area abutting a PUD site is developed, or clearly planned and zoned for single family residential uses, development at that abutting perimeter of the PUD must be single family residential in character.
- J. All standards listed in Section 17.100.080 (Modifications) and 17.100.090 (Common elements and open space) are met.
- K. PUDs within the floodplain shall comply with all applicable city flood regulations and the requirements of the National Flood Insurance Program (NFIP).

17.100.070 Planning Commission action.

The Planning Commission shall act upon the application within 120 days after the application is deemed complete, excluding such time as may be required to complete any



necessary zoning amendment.

A. Planning Commission options.

In taking action, the Planning Commission may approve unconditionally, approve with conditions, or deny an application as submitted. Any PUD shall be subject to all conditions imposed, and shall be excepted from the other provisions of this title only to the extent specified in said approval.

B. Time limits.

Any approval of a PUD granted hereunder shall lapse and become void unless, within 12 months after the approval of the Preliminary PUD Plan, or within such other period of time as may be stipulated by the Planning Commission as a condition of such approval, application for final PUD approval has been submitted, or construction of the PUD has begun and has been diligently pursued. The Planning Commission may impose other conditions limiting the time within which the development of portions thereof must be completed.

C. Appeal.

The decision of the Planning Commission shall be final unless it is appealed to the City Council according to the procedures set forth in Chapter 17.124.

D. Preliminary PUD Modification.

An applicant may apply for modifications to an approved preliminary PUD at any time. Modifications to approved preliminary PUD plans are subject to the process described in 17.100.120(E) and (F), but are not subject to the limitation set forth in 17.100.130.

17.100.080 Modifications to standards to be authorized.

The Planning Commission may authorize modifications to the dimensional standards of the underlying zoning district, to parking lot design standards, or to the design of public streets and alleys, subject to the following limitations:

A. Modifications must be identified.

Each proposed modification shall be separately identified, combined with an explanation of why the modification meets one or more of the purposes of PUDs stated in 17.100.010.

B. Limits to modifications.

The nature and extent of potential Code modifications shall be limited to the restrictions and design standards listed below and pertaining to:

1. The size, dimension, location, position and coverage of lots.
2. The location, size and yards for buildings and other structures.
3. Off-street vehicle parking and loading.
4. Streets with respect to length, width, intersection standards, grades, curve radii, turnarounds, easements, street lighting, sidewalks, curbs, and driveway approaches for streets within the PUD, provided they allow adequate circulation for fire access.

- a) The Fire Chief shall be part of the pre-application conference and will provide written comments as to why the proposed streets will or will not provide adequate fire access based on accepted standards for fire protection and emergency access. If the Fire Chief determines that the proposed streets do not provide adequate fire access, he will make specific written recommendations to the applicant as to what modifications can be made to provide adequate fire access.

C. Setbacks.

Setbacks around the perimeter of the PUD and from existing open streets shall be no less than 20 feet.

- D. Street and parking standards.  
Modifications of street and parking standards proposed in a PUD shall be of an equivalent or better structural quality with respect to the amount, quality, and installation of construction materials as determined by the City Engineer. In no instance shall modifications be granted to standards that apply to collector or arterial streets.
- E. Height Standards  
Height structures shall not exceed the height allowed in the underlying zone, excepting that the height of any structure shall not exceed 35 feet in height as measured from finished grade to the average highest gable.

17.100.090 Common elements and required open space.

The following standards apply to common areas and open space.

A. Common areas.

Where a PUD has open spaces, parking areas or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and in no event shall any lot or unit be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

1. If the PUD is a planned community under ORS Chapter 94, the declaration and plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Commission before being recorded in the official records of Coos County.
2. If the PUD is a condominium under ORS Chapter 100, the declaration and plat for the condominium shall have been recorded in the official records of Coos County, and a copy of the recorded declaration and plat shall be submitted with the Final PUD Plan. A condominium declaration and plat that has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Coos County is not required to be reviewed and approved by the Planning Commission and the Planning Commission shall have no authority under this subsection to require changes thereto.
3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Commission for approval as part of the Final PUD Plan before being recorded in the official records of Coos County.
4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Nothing in this subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.
5. Land shown on the Final PUD Plan as a common element shall be conveyed under one of the following options:
  - a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.
  - b. To an association of owners created pursuant to ORS Chapters 94 and 100 or as otherwise created under Subsection 17.64.090(3), in which instance the City shall be made a party to the legal document which

establishes the association, and such document shall provide that the association cannot be terminated or discontinued without the City's prior consent, and that the City may enforce any and all of its provisions.

B. Parks and open space.

At a minimum, 25% of the net site acreage, after excluding existing and proposed public rights-of-way, shall be reserved as common open space, parks, trails, and/or natural areas.

1. Natural areas shall be retained in their natural condition. If natural areas are degraded, they shall be restored and enhanced.
2. At least half of the required open space shall be on land that is otherwise develop-able. Such areas shall be fully improved by the developer for urban open space use (e.g., active parks, plazas, squares and landscaped boulevards) and shall be accessible by PUD residents.
3. Open space area does not include private streets, private yards or anything contained in private yards, public rights-of-way, or required parking areas.
4. Within or adjacent to the PUD, a parcel of land of not less than six percent of the gross area of the PUD shall be set aside and dedicated to the public by the applicant. The six percent is in addition to the area required for common open space. The parcel shall be approved by the Planning Commission as being suitable for park and recreation uses. In the event no such area is suitable for park and recreation purposes, or the applicant elects not to offer land to satisfy this requirement, the applicant shall pay into a public land acquisition fund a sum of money equal to six percent of the current market value of the total land area in the PUD. The sums so contributed shall be used to aid in securing land or providing facilities for park and recreation purposes within the city.

When the approval of architectural plans for buildings in the PUD has been postponed under Subsection 17.100.030(F) at the discretion of the Planning Commission, the approval of architectural plans for buildings can occur as a one-step procedure when combined with the submission of a Final PUD Plan which incorporates the building(s) and the landscaping and other site improvements which surround the building(s).

17.100.110 Engineering construction plans and improvements

- A. Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by an engineer registered in Oregon. The required engineering plans shall be submitted to and approved by the city before the start of construction.
- B. Unless specifically authorized by the Planning Commission at the time of Preliminary PUD approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the city or other public entity to which ownership of said facilities or utilities will be conveyed.
- C. The procedures for engineering design, plan approval and inspection, and bonding requirements shall be the same as required in 16.40.

17.100.120 Approval of Final PUD Plan; approval criteria

The following provisions shall govern the submission and approval of a Final PUD Plan:

A. Filing requirements, time extensions

Within twelve months following final approval by the Planning Commission of the Preliminary PUD plan, the applicant shall file a Final PUD plan.

1. The Final PUD Plan shall contain in final form all information and materials

required by Section 17.100.030 unless certain items are waived by the Planning Director. Waived items shall be specified for the Commission. However, there shall be no burden to demonstrate compliance with the criteria in Section 17.100.060 and no findings of fact and conclusions of law for these criteria are required in order for the Planning Commission to approve a Final PUD Plan.

2. As appropriate, the Final PUD Plan shall incorporate all conditions imposed by the Planning Commission at the time the Preliminary PUD Plan was approved. In its sole discretion, and upon the written request by an applicant, the Planning Commission may extend the time for filing a Final PUD Plan for one additional 12-month period or such lesser period as may be established by the Planning Commission.

B. Phased PUD, time limit between phases

The Final PUD Plan may be submitted for the entire project or on a phase-by -phase basis consistent with the approved Preliminary PUD Plan.

1. If a Preliminary PUD Plan was not approved as a phased project, nothing in this subsection shall prevent the Planning Commission from approving a Final PUD Plan in phases provided that the Final PUD Plan complies with all other requirements of this Chapter.
2. If the Planning Commission approves a Final PUD Plan for the first phase of a PUD having approved multiple phases, such approval shall perfect the applicant's rights under this section to complete subsequent future phases. However, it is further provided that after Final PUD Plan approval for the first phase, and for each successive phase thereafter, no more than three years shall elapse between approval of phases.
3. If more than three years pass between the Final PUD Plan approval of any two PUD phases, the Planning Commission may, without consent of the owners of the PUD, initiate action to terminate undeveloped portions of the PUD.
4. Nothing in this subsection shall prohibit or limit the ability of the Planning Commission to establish time periods within which substantial construction of a PUD or any phase thereof is required to occur after a Final PUD Plan has been approved.

C. Final plat for land division

Application for the approval of a Final PUD Plan may occur before, after or concurrent with the approval of a final plat for a land division by the Planning Director. However, it is further provided that no building permits shall be approved by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Commission.

D. Final PUD Plan approval criteria

The Final PUD plan shall be approved by the Planning Commission if it concludes that compliance exists with each of the following criteria:

1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Section 17.100.080.
2. The final PUD Plan is substantially consistent with the Preliminary PUD Plan, and the conditions, if any, which were attached by the Planning Commission to the approval of the Preliminary PUD Plan. An applicant may seek written clarification from the Planning Director regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being substantially consistent.

E. Preliminary PUD modification required

When substantial inconsistencies between the Preliminary and Final PUD are found to occur, these shall result in the need to approve a modification to the approved Preliminary PUD Plan. Modification to the Preliminary PUD Plan approval shall be required whenever the criteria listed in 17.100.120(D) cannot be satisfied. In no instance shall a Final PUD Plan be approved if inconsistencies with the approved Preliminary PUD Plan exist in any of the ways listed below:

1. The exterior boundaries of the PUD shall not change except for slight deviations which are the result of correcting boundary errors or inconsistencies that are found to exist at the time the PUD property is surveyed.
  2. The number of housing units shall not be increased, and in no instance shall the number of housing units be decreased, by more than five percent.
  3. There are new deviations to provisions of this Code which were not approved by the Planning Commission as part of the Preliminary PUD Plan.
- F. Substantial modifications to an approved Preliminary or Final PUD shall be reviewed under the same process and approval criteria as would be required for a new Preliminary or Final PUD application, as appropriate. However, the approval criteria shall apply only to those elements of the PUD proposed for revision.

17.100.130 Limitation on new application

In the event where an application allowed or provided for by the provisions of this chapter is finally denied after exhaustion of all local appeals, and unless the denial is specifically stated to be without prejudice, it shall not be eligible for re-submission for a period of 12 months from the date of final denial unless, in the opinion of the Planning Director, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

17.100.140 Surety agreement and bond

- A. The developer shall enter into an agreement and provide surety acceptable to the city attorney which assures conformance with the development plan. The city shall have the ability to draw against the surety in an amount necessary to complete the improvements of the infrastructure and other elements of the plan being necessary for protection of the city and general public interest.
- B. The agreement shall be considered a contract between the city and the developer and include at least the following:
1. Specification of the requirements of what the developer/owner is expected to do.
  2. The deadline for the performance.
  3. That the agreement is for the benefit of the local government and not ultimate purchasers of individual lots, units or real estate interest.
  4. Terms under which the city can determine the developer is in default.
  5. The right for the city staff to come onto the property and inspect and complete work if necessary.
  6. Specification adequacy of rights and remedies for enforceability by the city.
- C. Any bond that is used as a part of this surety agreement shall be in the form acceptable to the city attorney and should include the normal commercial elements of an adequate bond and should at a minimum specify an appropriate method of declaration of default, be with a bonding company that is, in the opinion of the city's advisors, a company that has an adequate rating, have sufficient assets, and should be a local Oregon company in the event that the city is required to sue to preserve its right to claim.



## Chapter 17.102

### WETLAND PROTECTION STANDARDS

#### Sections:

17.102.010	Purpose
17.102.015	Definitions
17.102.020	Wetland protection
17.102.035	Protection during construction
17.102.040	Plan amendment option

#### 17.102.010 Purpose

This chapter is intended to provide protection for identified significant wetlands within the City of Bandon as designated under Statewide Planning Goal 5. Wetlands have been inventoried within the City of Bandon and the Urban Growth Boundary according to procedures, standards and definitions established under Goal 5 and are identified on the Wetlands map as adopted in the Comprehensive Plan.

This chapter is also intended to 1) ensure reasonable economic use of property while protecting valuable natural resources within the City of Bandon and, 2) establish clear and objective standards to protect these resources.

#### 17.102.015 Definitions

Bioengineering: A method of erosion control and landscape restoration using live plants.

- A. Building Envelope: The land area, outside of all required setbacks, which is available for construction of a primary structure on a particular property.
- B. Delineation: An analysis of a resource by a qualified professional that determines its boundary according to an approved methodology.
- C. Excavation: Removal of organic or inorganic material (e.g. soil, sand, sediment, muck) by human action.
- D. Fill: Deposition of organic or inorganic material (e.g. soil, sand, sediment, muck, debris) by human action.
- E. Impervious Surface: Any material (e.g. rooftops, asphalt, concrete) which substantially reduces or prevents absorption of water into soil.
- F. Lawn: Grass or similar materials usually maintained as a ground cover of less than 6 inches in height. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.
- G. Local Wetlands Inventory (LWI): A report prepared in 2003 by Pacific Habitat Services using the methodology developed by the Oregon Division of State Lands, and adopted as part of the Bandon Comprehensive Plan.
- H. Mitigation: A means of compensating for impacts to a Significant Natural Resource or its buffer including: restoration, creation, or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, removal of nuisance plants, and restoring streamside vegetation where it is disturbed.
- I. Native Vegetation: Plants identified as naturally occurring and historically found within the City of Bandon.
- J. Natural Resource Enhancement: A modification of a natural resource to improve its quality. Non-conforming: A structure or use that does not conform to the standards of this ordinance but has been in continuous existence from prior to the date of adoption of

this ordinance up to the present. Non-conforming uses are not considered violations and are generally allowed to continue, although expansion, re-construction, or substantial improvements are regulated.

- K. Non-Significant Wetland: A wetland mapped on the City of Bandon Local Wetlands Inventory which does not meet the primary criteria of the Oregon Division of State Lands Administrative Rules, OAR Chapter 141 (July, 1996 or as amended), for Identifying Significant Wetlands. For additional criteria information please refer to Statewide Planning Goal 5 the City of Bandon Local Wetland Inventory.
- L. Oregon Freshwater Wetland Assessment Methodology (OFWAM): A wetland function and quality assessment methodology developed by the Oregon Division of State Lands.
- M. Qualified Professional: An individual who has proven expertise and vocational experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.
- N. Review Authority: The City of Bandon.
- O. Shrubs: Woody vegetation usually greater than 3 feet but less than 20 feet tall, including multi-stemmed, bushy shrubs and small trees and saplings.
- P. Significant Wetland: A wetland mapped on the City of Bandon *Local Wetlands Inventory* which meets the primary criteria of the Oregon Division of State Lands Administrative Rules, OAR Chapter 141 (July 1996 or as amended), for Identifying Significant Wetlands. For additional criteria information refer to Statewide Planning Goal 5 and the City of Bandon Local Wetland Inventory. State and Federal Natural Resource Agency: Oregon Division of State Lands, Oregon Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Department of Agriculture Natural Resources Conservation Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and Department of Environmental Quality.
- Q. Stream: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.
- R. Structure: A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through zoning ordinances.
- S. Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
  - 1. Before the improvement or repair is started, or
  - 2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.The term does not, however, include either:
  - 3. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
  - 4. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- T. Trees: A woody plant 6 inches or greater in diameter at breast height and 20 feet or taller.
- U. Variance: A grant of relief from the requirements of this ordinance, which permits activity in a manner that would otherwise be prohibited by this ordinance.



- V. Wetland: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Based on the above definition, three major factors characterize a wetland: hydrology, substrate, and biota.
- W. Wetland Boundary: The edges of a wetland as delineated by a qualified professional.

17.102.020 Wetland protection

A. Determination of Local Significance for Wetlands

Prior to alteration or development of any property or parcel containing a wetland area identified in the *Local Wetlands Inventory*, a determination of local significance shall have been made. Locally significant wetlands are determined by OAR 141-86-350, including any optional wetlands adopted by the City Council as locally significant. If an assessment according to the Oregon Freshwater Wetland Assessment Methodology is necessary to determine local significance pursuant to OAR 141-86-350, it shall be the responsibility of the property owner and/or developer, if such an assessment has not been previously performed by the City of Bandon or others, and subject to acceptance and approval of the review authority.

B. Applicability

- 1) The provisions of Section 17.102.020 shall be applied to any property or parcel containing a wetland identified as being locally significant. The provisions shall apply regardless of whether or not a building permit, development permit, or zoning compliance is required, and do not provide any exemption from state or federal regulations. For riparian corridors located adjacent to wetlands, the provisions of Chapter 17.102.030 shall also be applied.
- 2) Applications for plan reviews, development permits, zoning compliance, and plans for proposed public facilities on parcels containing a significant wetland, or a portion thereof, shall contain the following:
  - (a) A jurisdictional delineation of the wetland boundary, approved by the Oregon Division of State Lands.
  - (b) A to-scale drawing that clearly delineates the wetland boundary, existing trees 6" or greater in diameter 4' above the ground, and existing major plant communities and their location.
- 3) When reviewing development permits, zoning compliance, or plan review applications for properties containing a significant wetland, or portion thereof, the approving authority shall consider how well the proposal satisfies the purpose statement in Section 17.102.010, "Purpose", in addition to any other required approval criteria.
- 4) The Planning Commission shall be the approving authority for applications requiring exceptions to the provisions herein pertaining to significant wetlands, pursuant to Section 17.102.020.
- 5) The provisions of this chapter shall not apply to properties or parcels that have received approval for land use permits, plan reviews, building permits or variances prior to the enactment of this Chapter.

C. Variance. A request to deviate the requirements of this chapter may be submitted for consideration by the Planning Commission. A variance request may be approved as long as equal or better protection of the wetland will be ensured through a plan for restoration, enhancement, or similar means, and if applicable permits from the Oregon Division of State Lands and the U.S. Army Corps of Engineers are obtained. In no case shall activities prohibited in Section 17.102.020(E) occupy more than 25% of the wetland. Granting of a Variance requires that the property owner submit findings that:

1. the proposed development requires deviation from the wetland standards; and
2. strict adherence to the wetland standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and
3. that the property owner would be precluded a substantial property right enjoyed by the majority of the property owners in the vicinity
4. In all cases, the Planning Commission shall determine whether the proposal is seeking the minimum intrusion into the wetland necessary for the proposal.

D. Delineation of Resource.

1. Preparation/Criteria. An applicant subject to this section shall first delineate the resource. A delineation is a more precise, site specific determination of the location of the resource prepared by a qualified professional. The delineation shall include a map showing the delineated wetland boundary. The applicant shall also submit any approvals obtained by Natural Resource Agencies.
2. Review of Delineation. The Planning Director shall compare the applicant's delineation maps with the 2003 Local Wetlands Inventory, and may inspect staked, delineated resource boundaries. The Planning Director shall approve the delineation if he finds that the delineated boundary accurately reflects the location of the resource. If the Planning Director finds that the evidence is contradictory or does not support the proposed delineation, he shall deny the delineation. In the alternative, the Director may continue the application for additional information if:
  - a. The applicant agrees to conduct a new delineation by a qualified professional at the applicant's expense; and
  - b. The applicant waives the applicable statutory deadline for completing a local decision on the application for the period of time necessary to conduct the new delineation.

Decisions made by the City of Bandon under this chapter do not supercede the authority of state or federal agencies, which may regulate or have an interest in the activity in question. It is the responsibility of the landowner to ensure that any other necessary state or federal permits or clearances are obtained.

3. Adjustment of Wetland Boundaries to Reflect Approved Delineation. An approved delineated boundary shall replace the boundary in the LWI for the purposes of reviewing the development proposal for compliance with this chapter. If and when the proposed development receives final approval, including resolution of any appeals, the wetlands boundary shall be modified to be consistent with the delineated boundary.
4. Re-delineation not Required; Exceptions. An applicant for a development of land that includes a jurisdictional wetland shall not be required to delineate the resource pursuant to this section if the resource has been previously delineated pursuant to an earlier development application, if the delineation has been approved by the Oregon Division of State Lands or the Army Corps of Engineers, and if the delineation is less than 5 years old.
5. Exception: The Planning Director may require a new delineation if:
  - a. The applicant desires to demonstrate that the previously delineated boundary is no longer accurate;
  - b. There is evidence of a substantial change in circumstances on the property that has affected the location of the resource as previously delineated; or
  - c. The City Council has adopted new delineation standards or requirements

since the previous delineation.

E. Prohibited Activities Within Significant Wetlands

The following activities are prohibited within significant wetlands except as may be permitted in Section 17.102.020(F)(2).

1. Placement of structures or impervious surfaces, including septic drainfields, fences, decks, etc.
2. Excavation, grading, fill, or removal of vegetation, except for perimeter mowing for fire protection purposes. Non-native vegetation may be replaced with native plants.
3. Expansion of existing non-native landscaping, such as lawn, in existence prior to the adoption of this chapter.
4. Dumping, piling, or disposal of refuse, yard debris, or other material.
5. Application of chemicals such as herbicides, pesticides, and fertilizers unless applied in accordance with state and/or federal regulations.

F. Permitted Activities Within Significant Wetlands

1. The following activities, and maintenance thereof, are permitted within a significant wetland if applicable permits from the Oregon Division of State Lands and the U.S. Army Corps of Engineers are obtained.
  - a. Wetland restoration and rehabilitation activities.
  - b. Restoration and enhancement of native vegetation, including the addition of canopy trees; cutting of trees which pose a hazard due to a threat of falling; or removal of non-native vegetation if replaced with native plant species at the same amount of coverage or density.
  - c. Normal farm practices, other than structures, in existence prior to the date of adoption of the provisions herein.
2. The following activities, and maintenance thereof, are permitted within a significant wetland if the activity meets the requirements of 17.102.020(J) "Mitigation Requirements", if no other options or locations are feasible, if designed to minimize intrusion into the wetland, and if applicable permits from the Oregon Division of State Lands and the U.S. Army Corps of Engineers are obtained.
  - a. Utilities or other public improvements.
  - b. Streets, roads, or bridges where necessary for access or crossings.
  - c. Multi-use paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture.
  - d. Replacement of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein with a structure in the same location, if it does not disturb additional wetland area.
  - e. Expansion of a permanent legal nonconforming structure in existence at the date of adoption of the provisions herein, if the expansion area is not within the significant wetland.

G. Conservation and Maintenance of Significant Wetlands

When approving applications for plan reviews, development permits, or zoning compliance for properties containing a wetland protection area, or portion thereof, the approving authority shall assure long term conservation and maintenance of the wetland through one of the following methods:

1. The area shall be protected in perpetuity by a conservation easement recorded on deeds and plats prescribing the conditions and restrictions set forth and any

- imposed by state or federal permits; or,
- 2. The area shall be protected in perpetuity through ownership and maintenance by a private non-profit association by conditions, covenants, and restrictions (CC&R's) prescribing the conditions and restrictions and any imposed by state or federal permits; or,
- 3. The area shall be transferred by deed to a willing public agency or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth and any imposed by state or federal permits; or,
- 4. The area shall be protected through other appropriate mechanisms acceptable to the City of Bandon, which ensure long-term protection and maintenance.

H. Mitigation

Mitigation is a way of repairing or compensating for adverse impacts to the functions and values of a natural resource caused by development. Mitigation may consist of resource area creation, restoration, or enhancement. Some examples of mitigation actions are enhancement of existing wetlands, replanting trees, and restoring streamside and/or wetland vegetation where it is disturbed. Recognizing that true replacement of functioning or complex natural resource system is difficult and can take many years, mitigation is discouraged by first requiring that avoidance of development siting within the resource be explored. Then, if that is not possible, actions should be taken to minimize the damage to the resource.

I. Progressive Mitigation Steps Required

The approving authority shall permit development only if it finds that the following progressive steps have been met:

- 1. Step #1 - Avoidance: The applicant shall endeavor to avoid detrimental impacts to the wetland altogether by providing alternative site plans along with the development proposal demonstrating that alternative designs have been explored. If disturbance of a wetland is proposed, the applicant shall first demonstrate that intrusion into the wetland area cannot be avoided by a reduction in the size or configuration of the proposed development or by changes in the design that would avoid adverse effects on the resource while still allowing development of the property.
- 2. Step #2 - Minimization: If the applicant has endeavored to avoid detrimental impacts to the wetland, and the review authority finds that detrimental impacts cannot be avoided, then the applicant shall minimize impacts by demonstrating that:
  - a. Alternative and significantly different site plans and development locations on the subject site have been considered, and that the alternative chosen is the least environmentally damaging; and
  - b. When mitigation is proposed, there will be no net loss of wetland area, function, or values as a result of development actions.

J. Mitigation Requirements

- 1. Mitigation Plan. When mitigation is proposed or required as part of a development application, the applicant shall provide a mitigation plan prepared by a qualified professional that:
  - a. Demonstrates compliance with OAR 141-85-005 through 090 and this section.
  - b. Includes a maintenance and monitoring plan to ensure the viability of the mitigation over time. As part of the monitoring plan, the applicant or other legally responsible agent shall provide an annual report to the Planning Director on October 31st of each year for a 5-year period. The report

- shall be prepared by a qualified professional and shall document site conditions with narrative and pictures.
- c. Provisions for regular maintenance and periodic monitoring of the mitigation site at the applicant's expense. Failure to comply with an approved mitigation plan shall be deemed a violation of this chapter and a public nuisance and may be enforced pursuant to Chapter 8.12.
2. If a Division of State Lands (DSL) wetland permit, Army Corp. of Engineers, or other State or Federal permit is also required, the City shall not issue a permit until all applicable State and Federal wetland permit approvals have been obtained.
  3. Mitigation shall be completed prior to a final inspection, issuance of final occupancy permit, or acceptance of a public improvement, or to a point stipulated by the review authority.
  4. On-site mitigation is required where possible, taking into consideration the existing natural and human-made features of a site. If the review authority finds that on-site mitigation is not possible, then off-site mitigation shall be permitted according to the following priorities:
    - a. Within the same drainage system and within the City limits; or
    - b. Outside of the drainage system, but inside the City limits; or
    - c. Outside the drainage system and City limits, but within the Bandon Urban Growth Boundary.
  5. When wetland mitigation is proposed the review authority shall require minimum mitigation ratios (area of wetland created or enhanced to area of wetland lost) as follows:
    - a. Wetlands Restoration - 1:1 ratio
    - b. Wetlands Creation - 1.5:1 ration
    - c. Wetlands Enhancement - 3:1 ratio
  6. Vegetation restoration shall be required to mitigate the loss of plant communities disturbed by development activities. Restoration vegetation shall be required for all mitigation projects, including trees, shrubs, and ground cover plants as identified on the Restoration Plants List (on file in the Planning Department). The restoration plant community chosen shall recreate a diverse and healthy environment compatible with the resource.
  7. Initial 5-Year Bonding Period.
    - a. The applicant or property owner of a development subject to an approved mitigation plan shall post a performance bond or a letter of credit to the City that is equal to 120% of the value of the improvements installed pursuant to the plan for a 5 year period. The bond shall be posted prior the issuance of development permits to ensure the success of mitigation improvements and the survival of plant materials.
    - b. The performance bond or the letter of credit will be released by the City after 5 years upon receiving proof that the mitigation measures have been successfully implemented according to approved plans from DSL or the Corps of Engineers. Following release of the financial guarantee, the appropriate party will be responsible for maintenance of the resource.
    - c. If mitigation improvements fail during the bonding period and responsible party does not replace said improvements after notification by the City, the bond shall be forfeited and shall be used by the City to correct the problem pursuant to the approved mitigation plan and the conditions of approval.

- d. Property owners of individual tax lots that are lots of record , which are zoned for single family residential use, are not large enough to be further divided, and were in existence prior to the date this section becomes effective shall be exempt from these bonding requirements.

K. Wetlands Notification to Oregon Division of State Lands

The Oregon Division of State Lands shall be notified of all applications to the City of Bandon for development activities, including applications for plan authorizations, development permits, or building permits, and of development proposals by the City of Bandon, that may affect any wetlands, creeks, or waterways identified on the *Local Wetlands Inventory*.

17.102.035 Protection during construction

The applicant shall be required to submit a resource protection plan prior to commencement of ground-disturbing activities that may affect wetlands or riparian corridors. The plan shall be submitted and approved by the Planning Director and must contain methods ensuring that the resource is not disturbed during construction, which includes both physical barriers such as fencing and methods to ensure that no runoff or other surface impacts affect the resource. The approved plan shall be implemented and maintained until such time as the Planning Director deems it is no longer necessary. Failure to implement and/or maintain the approved plan will result in an immediate stop work order and possible abatement in accordance with Chapter 17.120.210.

17.102.040 Plan amendment option

Any owner of property affected by this chapter, as designated in the comprehensive plan, may apply for a quasi-judicial comprehensive plan amendment. This amendment must be based on a specific development proposal. The effect of the amendment would be to remove the significant wetland or riparian corridor designation from all or a portion of the property. The applicant shall demonstrate that such an amendment is justified by completing an Economic, Social, Environmental, and Energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040. If the application is approved, then the ESEE analysis shall be incorporated by reference into the Bandon Comprehensive Plan, and the Bandon Wetland and Riparian Corridor Map shall be amended accordingly. The ESEE analysis shall adhere to the following requirements and shall be submitted in accordance with Chapter 14 of the Bandon Comprehensive Plan:

The ESEE analysis must demonstrate to the ultimate satisfaction of the Bandon City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource. The City should confer with the Department of Land Conservation and Development prior to making their ultimate decision.

1. The ESEE analysis must demonstrate why the use cannot be located on buildable land outside of the resource and that no other sites within the City of Bandon can meet the specific needs of the proposed use.
2. The ESEE analysis shall be prepared by a qualified professional experienced in the preparation of Goal 5 ESEE analyses, with review and approval by the City and DLCD.



## Chapter 17.103

### RIPARIAN CORRIDOR PROTECTION

#### Sections

- 17.103.010 Applicability
- 17.103.020 Exemptions
- 17.103.030 Permitted Activities within Riparian Corridors
- 17.103.040 Permitted Activities within Riparian Corridors
- 17.103.050 Exceptions (Setback Adjustments and Variances)
- 17.103.060 Protection During Construction

#### 17.103.010 Applicability

- A. Riparian protection shall be applied to the riparian corridors as identified in the Riparian Inventory of the Comprehensive Plan, maintained in the City of Bandon Planning Department, which is incorporated herein by reference, and includes the following:
1. A corridor one hundred (100) feet wide, centered on the following segments of the following creeks:
    - a. **Johnson Creek** - from the City limits west of Highway 101 to the Statutory Vegetation Line.
    - b. **Gross Creek - Main Stem** - from 13<sup>th</sup> Street SW to Edison Avenue.
    - c. **Gross Creek - West Branch** - from 4<sup>th</sup> Street SW to Jetty Road.
    - d. **Tupper Creek** - from Queen Anne Court to the Statutory Vegetation Line.
  2. A corridor fifty (50) feet wide, centered on the following segment of the following creeks:
    - a. **Spring Creek** - from Ohio Avenue NE to the Bandon Marsh National Wildlife Refuge on the Coquille River.
    - b. **Gross Creek - West Fork** - from 13<sup>th</sup> Street SW to intersection with Gross Creek Main Stem south of 11<sup>th</sup> Street.
  3. **Ferry Creek**  
The significant riparian corridor along the portion of Ferry Creek that runs through the Locally Significant Wetland of Ferry Creek will extend to the edge of the wetland. The Riparian corridor along portions of Ferry Creek that are not Locally Significant Wetland, shall be protected as follows:
    - a. **Ferry Creek - Main Stem** - from Highway 101 (2<sup>nd</sup> Street SE) to the south side of 3<sup>rd</sup> Street SE a corridor of (50) feet wide, centered on the creek.
    - b. **Ferry Creek - Main Stem** - from the south side of 3<sup>rd</sup> Street SE at Grand Avenue southwesterly approximately 300 feet to the point in the alley between 4<sup>th</sup> and 5<sup>th</sup> Streets, mid-block between Grand and Harlem Avenues a corridor one hundred (100) feet wide, centered on the creek.
    - c. **Ferry Creek -Tributary - from the Ferry Creek - Main Stem in the vicinity of 5<sup>th</sup> Street between North Avenue and Michigan Avenue, south to the City limits, a corridor one hundred (100) feet wide, centered on the creek.**
- B. The provisions of this Chapter shall apply whether or not a plan review, zoning compliance, or land development permit is required, and do not provide any exemption from any state or federal regulations. For locally significant wetland located within



- riparian corridors, the provisions of Chapter 17.102 shall also apply.
- C. Applications for plan reviews, land development permits, and zoning compliance, and plans for public facilities proposed to be located on parcels containing a riparian corridor, or portion thereof, shall contain a to-scale drawing that clearly delineates the riparian corridor on the entire parcel or parcels, if the City Manager or Community Development Director determines that the riparian corridor could be affected by the proposal.
  - D. Any use or structure lawfully existing on the date of adoption of this Chapter is permitted within the riparian corridor and may continue at a similar level and manner as existed on the date of adoption, subject to the provisions of 17.103.020.
  - E. The Planning Commission shall be the approving authority for applications for exceptions, setback adjustments, and variances to the provisions herein pertaining to Riparian Corridors.
  - F. In making any determination or decision under this Chapter, the approving authority may consult with, or seek recommendations from, any other local, state, or federal agency or authority.

#### 17.103.020 Exemptions

The restrictions imposed by this Chapter do not apply to the maintenance, repair, or reconstruction of any structure, building, or use, or portion thereof, which is located within a riparian setback area either on the effective date of this Chapter or subsequently allowed pursuant to the provisions of this Chapter, and which is damaged, destroyed, or removed by any means whatsoever, provided such maintenance, repair, or reconstruction shall not result in a greater intrusion into the riparian setback area than existed at the time of such damage, destruction, or removal.

#### 17.103.030 Prohibited Activities within Riparian Corridors

The following activities are prohibited within a riparian corridor, except as may be allowed pursuant to 17.103.050:

- A. Placement of structures or impervious surfaces, including fences, decks, etc.
- B. Excavation, grading, fill, stream alteration or diversion, or removal of native vegetation, except for perimeter mowing for fire protection purposes.
- C. Expansion of pre-existing non-native ornamental vegetation such as lawn.
- D. The utilization of herbicides or pesticides, except as specifically approved by the City on an individual case-by-case basis. Approval for the use of herbicides or pesticides shall require that they be applied in full compliance with manufacturer's instructions and all applicable Federal, State, and local regulations.

#### 17.103.040 Permitted Activities within Riparian Corridors

The following activities, and maintenance thereof, shall be permitted within a riparian corridor, provided they are designed to minimize impact on, and intrusion into, the riparian corridor, and provided all applicable City, State, and Federal permits have been obtained:

- A. Waterway restoration and rehabilitation activities such as channel widening, realignment to add meander, bank grading, terracing, reconstruction of road crossings, or water flow improvements.
- B. Restoration and enhancement of native vegetation, including the addition of canopy trees, cutting of trees which pose a hazard, and removal of non-native vegetation. Removal of trees and native vegetation shall be avoided during construction except as

determined by the plan review approving authority to be absolutely necessary to accommodate the construction. The existing grade of the land shall be restored after construction.

- C. Streets, roads, driveways, and paths; provided that bridges, arched culverts, or box culverts with a natural bottom shall be used at the stream crossing. The lower lip of any culvert must meet the channel bed at or below grade. The number of channel crossings shall be minimized through use of shared access for abutting lots wherever possible.
- D. Drainage facilities, utilities, and irrigation pumps, as approved by the City.

#### 17.103.050 Exceptions (Setback Adjustments and Variances)

A request for an exception, which shall be either a “setback adjustment” or “variance” as provided herein, to reduce or deviate from the riparian corridor boundary provisions of this Chapter may be submitted to the Planning Commission.

- A. In all cases, the applicant shall supply sufficient information regarding the proposed development to allow the Commission to make a determination regarding the impact on riparian resources. This information shall include, but is not limited to: a plot plan showing the center of the creek and the top of bank, the riparian corridor boundary, the extent to which the proposed development will extend into the riparian corridor, uses that will occur within the corridor, the existing vegetation and the extent of vegetation removal, characteristics (type, size, and density) of existing and proposed vegetation, any proposed alterations to topography or drainage patterns, and existing uses or structures on the property and any potential impacts they could have on the riparian resource.
- B. The removal of native vegetation shall be limited to the amount necessary to accommodate the proposed use. Any vegetation removed in excess of this standard shall be replaced with native species.
- C. In all cases, the Planning Commission shall determine whether the applicant has demonstrated that the proposal is seeking the minimum intrusion into the riparian corridor is unnecessary, the proposal may be modified or denied.
- D. **Setback Adjustment**
  - 1. **Qualifying Lots:** Lots on which the riparian setback required by this Chapter exceeds any other setbacks in a particular yard, and which, when combined with other yard setbacks, results in a building depth area of 20 feet or less or a building envelope of 1600 square feet or less.
  - 2. **Setback Reduction Limitations:** Reductions to the riparian setback shall be the minimum necessary to create a building depth of 50 feet or a building envelope of 1600 square feet, whichever requires a lesser reduction of the setback, provided the reduction shall not result in a structure being located closer than 25 feet from the center of the creek in a 100 ft. wide riparian corridor, or 12.5 feet from the center of the creek in a 50 ft. wide riparian corridor. Additional reductions of setbacks shall require a variance.
- E. **Variance**

In cases where the provision for a setback adjustment is not sufficient to provide the necessary building area contained in 17.102.050.D, a property owner may request a variance to the riparian setback, which shall be filed and processed in accordance with the provisions of Chapter 17.112 of the Bandon Municipal Code. In addition to meeting those requirements, granting of a variance to the riparian setback requires that the property owner submit findings that:

  - 1. the proposed development requires deviation from the riparian standards; and
  - 2. strict adherence to the riparian setback and other applicable standards would

- effectively preclude a use of the parcel that could be reasonably expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of property owners in the vicinity; and
3. The provisions of 17.102.050.D are sufficient to remedy the hardship.

17.103.060 Protection During Construction

When determined by the City Manager or Community Development Director that any proposed activity could impact a riparian corridor, the applicant for approval shall be required to submit a resource protection plan prior to commencement of ground-disturbing activities. The plan shall be submitted and approved by the City, and must contain methods ensuring that the riparian resources are not disturbed during construction. These methods could include, but are not necessarily limited to physical barriers such as fencing, and methods to ensure that no runoff, erosion, or other construction activities impact the resource. The approved plan shall be implemented and maintained until such time as the City deems it is no longer necessary.

## Chapter 17.104

### SUPPLEMENTARY PROVISIONS

#### Sections:

- 17.104.010 Zone boundaries.
- 17.104.020 General provisions regarding accessory uses.
- 17.104.030 Projections from buildings.
- 17.104.040 Maintenance of minimum requirements.
- 17.104.050 General exception to lot size requirements.
- 17.104.060 General exception to yard requirements.
- 17.104.080 Access.
- 17.104.090 Vision clearance area.
- 17.104.100 Protection of riparian areas.

#### 17.104.010 Zone boundaries.

Unless otherwise specified, zone boundaries are section or subdivision lines, lot lines, the ordinary high water line or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, the entire parcel shall be placed in the zone that accounts for the greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedure for a zone change shall be followed.

#### 17.104.020 General provisions regarding accessory uses.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the following limitations

- A. No sales shall be made from a greenhouse or hothouse maintained as accessory to a dwelling.
- B. A guest house may be maintained accessory to a dwelling, provided the parcel has adequate square footage to meet requirements of this title for two dwellings on a lot.
- C. A home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:
  - 1. No exterior display shall be permitted.
  - 2. Exterior signs shall be restricted to those generally permitted in the zoning district in which the home occupation is located.
  - 3. No exterior storage of materials shall be permitted.
  - 4. There shall be no other exterior indication of the home occupation or variation from the residential character of the principal building.

#### 17.104.025 Fence and wall standards (new)

- A. Front yard. A fence or wall located in a required front yard shall not be more than four (4) feet tall measured from curb elevation. When no curb elevation has been established, the height shall be measured from the established center line grade of the street abutting the yard concerned.
- B. Rear yard. A rear yard fence or wall shall not be more than eight (8) feet tall.
- C. Side yard. A side yard or wall shall not be more than six (6) feet.
- D. Height measurement. Fence or wall height is measured from the ground to the top of the highest part of the fence or wall, including posts, caps or other projections, but not including gates or arbors.

- E. Retaining wall. These standards do not apply to a device used to buttress earth, such as a retaining wall or riprap.
- F. Fences and walls are deemed accessory uses which serve the purpose of enclosing unroofed areas outside buildings. Any fence, wall or hedge must comply with vision clearance requirements. In a commercial or industrial district, notwithstanding the yard requirements, a fence, wall, hedge or other like screening device may be required by the City as a condition of the approval of a proposed improvement on a lot abutting, or across the street or alley from, an adjacent property in a residential district if the City finds that such screening is necessary to prevent an unreasonable interference with the use and enjoyment of the residential lot.
- G. Gates are prohibited on public or private streets, which serve more than two lots, parcels, or dwellings.

17.104.030 Projections from buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features shall not project more than eighteen (18) inches into a required yard.

17.104.040 Maintenance of minimum requirements.

No lot area, yard or other open space, or required off-street parking or loading area, existing on or after the effective date of the ordinance codified in this title, shall be reduced below the minimums required by this title; nor shall any lot area, yard or other open space or off-street parking or loading area which is required by this title for one use be used as the lot area, yard or other open space or off-street parking or loading area required for any other use, except as provided in Section 17.96.040(D).

17.104.050 General exception to lot size requirements.

- A. A parcel or lot which does not meet the current lot size requirements of the zone in which the property is located may be developed, provided that all other requirements of the zone are met.
- B. If a property owner desires to proceed with constructing an improvement on all or part of a parcel or contiguous subdivision lots, no portion of the property amounting to less than the whole property, shall be sold, divided or separated without the written permission of the City. This requirement shall be set forth in a Real Property Covenant and Restriction document which shall be filed at the County as a deed restriction.

17.104.060 General exception to yard requirements.

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

17.104.080 Access.

- A. All lots shall abut a street other than an alley for a width of at least forty (40) feet.

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

17.104.090 Vision clearance area.

No vision clearance area shall contain planting, walls, structures or temporary or permanent obstructions exceeding two and one-half feet in height measured from the top of the curb or, where no curb exists, grade at the property line.

- A. Residential driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points twenty (20) feet from their intersection. This measurement will form a triangle which will be used to calculate the vision clearance area.
- B. Commercial driveways shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points thirty (30) feet from their intersection. This measurement will form a triangle which will be used to calculate the vision clearance area.
- C. Street intersections shall have a minimum vision clearance area formed by the intersecting streets measuring a line along each pavement edge and a straight line joining said lines through points thirty (30) feet from their intersection. This measurement will form a triangle which will be used to calculate the vision clearance area.
- D. Trees shall be allowed within the vision clearance area, provided no portion of a tree except the main trunk shall be located between a height of two and one-half and a height of eight feet.

Chapter 17.108

NONCONFORMING USES AND STRUCTURES

Sections:

- 17.108.010 Continuation of nonconforming use or structure.
- 17.108.020 Nonconforming structure.
- 17.108.030 Discontinuance of a nonconforming use.
- 17.108.040 Termination of certain nonconforming uses.
- 17.108.050 Change of a nonconforming use.
- 17.108.060 Destruction of a nonconforming use.
- 17.108.070 Completion of structure.

17.108.010 Continuation of nonconforming use or structure.

Subject to the provisions of 17.108, 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 the ordinance codified in this title was adopted shall not be considered an extension of a nonconforming use. (editorially amended)

17.108.020 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 title.

17.108.030 Discontinuance of a nonconforming use.

- A. If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.
- B. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.

17.108.040 Termination of certain nonconforming uses.

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

17.108.050 Change of a nonconforming use.

If a nonconforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a nonconforming use.

17.108.060 Destruction of a nonconforming use.

If a nonconforming use is destroyed by any cause to an extent exceeding eighty (80) percent of the fair market value, as indicated by the records of the county assessor, a future structure or use shall conform to this title.

17.108.070 Completion of structure.

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



## Chapter 17.112

### VARIANCES

#### Sections:

- 17.112.010 Authorization to grant or deny variances.
- 17.112.020 Conditions for granting a variance.
- 17.112.030 Variance procedure.

#### 17.112.010 Authorization to grant or deny variances.

The planning commission may authorize variances from the requirements of this title where it is shown that, owing to special and unusual circumstances related to specific piece of property, the literal interpretation of this title would cause an undue or unnecessary hardship; except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the planning commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this title.

#### 17.112.020 Conditions for granting a variance.

No variance shall be granted unless it can be shown that all the following conditions can be met:

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

#### 17.112.030 Variance procedure.

The procedures for a variance application shall be the same as for a conditional use permit application.

Chapter 17.116

ZONE CHANGES AND AMENDMENTS

Sections:

- 17.116.010 Authorization to initiate amendments.
- 17.116.020 Application and fee.
- 17.116.030 Conditional zone amendment.
- 17.116.040 Records of amendments.

17.116.010 Authorization to initiate amendments.

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

17.116.020 Application and fee.

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

17.116.030 Conditional zone amendment.

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

- A. The city council shall have the authority to attach conditions to the granting of amendments to a zone boundary. These conditions may relate to any of the following matters:
  - 1. The uses permitted;
  - 2. Public facility improvements such as street improvements, dedication of street right- of-way, sewer, storm drainage, and water;
  - 3. That all or part of the development or use be deferred until certain events, such as the provision of certain public facilities to the property, occur;
  - 4. The time frame in which the proposed use associated with the zone boundary change is to be initiated.
- B. Conditions attached to a zone boundary change shall be completed within the time limitations set forth. If no time limitations are set forth, the conditions shall be completed within two years from the effective date of the ordinance enacting the one boundary

- change.
- C. The city council may require a bond from the property owner or contract purchasers in a form acceptable to the city in such amount as to assure compliance with the conditions imposed on the zone boundary change. Such a bond shall be posted prior to the issuance of the appropriate development permit.
  - D. Conditions shall not be imposed which would have the effect of limiting use of the property to one particular owner, tenant or business. Conditions may limit the subject property as to use, but shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.
  - E. Conditions that are imposed under the provisions of this section shall be construed and enforced as provisions of this zoning code relating to the use and development of the subject property. The conditions shall be enforceable against the applicant as well as their successors and assigns.
  - F. Requests for modification of conditions shall be considered by the zone amendment application and review procedure of this chapter.
  - G. Failure to fulfill any condition attached to a zone boundary change within the specified time limitations shall constitute a violation of this section and may be grounds for the city to initiate a change in the zone boundary pursuant to the procedures of this chapter.

17.116.040 Records of amendments.

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

## Chapter 17.118

### ANNEXATION

#### Sections:

17.118.010	Purpose
17.118.015	Procedure
17.118.020	Application
17.118.025	Initiation by Council
17.118.030	Approval Standards
17.118.040	Boundaries
17.118.050	Statutory Procedure
17.118.060	Mapping

Ordinance History: No. 1543

#### 17.118.010 Purpose.

The purpose of this chapter is to provide for the orderly transition and rezoning of land from Bandon's Urban Growth Boundary into the City Limits and to ensure the requirements of boundary changes, the provision of public facilities, and land use compatibility have been adequately addressed.

#### 17.118.015 Procedure.

All annexations shall be processed in the same manner as a Comprehensive Plan Amendment, with the exception that the requirements of state law regarding annexations shall be met.

#### 17.118.020 Application.

Except for annexations initiated by the council pursuant to section 17.118.025, application for annexation shall include the following information:

- A. Consent to annexation which is non-revokable for a period of one year from its date.
- B. Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.
- C. Boundary description and map prepared in accordance with ORS 308.225. Such description and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed and monumented as required by statute subsequent to Council approval of the proposed annexation.
- D. Written findings addressing the criteria in 17.118.030.
- E. Application by the property owner for a zone change and Comprehensive Plan amendment.
- F. A fiscal impact analysis that clearly illustrates the fiscal impact that annexing the area will have on the finances of the City.
- G. The required fee set by resolution of the City Council.

#### 17.118.025 Initiation by Council.

A proposal for annexation may be initiated by the Council on its own motion. The approval standards in section 17.118.030 shall apply. Provided, however, that in the case of annexation where current or probable public health hazard due to lack of full City sanitary sewer or water services or the lot or lots proposed for annexation are an "island" completely surrounded by

lands within the city limits, the only standards that apply shall be 17.118.030(A)

17.118.030 Approval standards.

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A. The land is within the City's Urban Growth Boundary.
- B. The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C. The land is currently contiguous with the present City Limits.
- D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage. Unless the City has declared a moratorium based upon a shortage of water or sewer, it is recognized that adequate capacity exists system-wide for these facilities.
- E. The annexation is consistent with the annexation policies contained in the Comprehensive Plan.

17.118.040 Boundaries.

When an annexation is initiated by a private individual, the City Manager may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City of Bandon. The City Manager, in a report to the Planning Commission and Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Planning Commission and Council to make annexations extending the City's boundaries more logical and orderly.

17.118.050 Statutory procedure.

The applicant for the annexation shall also declare which procedure, under ORS Chapter 222, the applicant proposes that the City Council use, and supply evidence that the approval through this procedure is likely.

17.118.060 Mapping.

Within 2 months of adoption of the ordinance approving an annexation, the City shall cause the annexation to be included on the official zoning map of the City, and shall provide to Coos County and the State of Oregon copies of the official map and ordinance approved by the City.

## Chapter 17.120

### ADMINISTRATION AND ENFORCEMENT

#### Sections:

- 17.120.010 Purpose.
- 17.120.020 Types of procedures and actions.
- 17.120.030 Applications.
- 17.120.040 Time limit on action on applications.
- 17.120.050 Administrative review and approval process.
- 17.120.060 Limited land use decisions, permits or actions.
- 17.120.070 Notice requirements for public land use reviews or limited land use decisions.
- 17.120.080 Permits or land use approvals which require a public hearing.
- 17.120.090 Notice of public hearing.
- 17.120.100 Availability of hearings information.
- 17.120.110 Hearings procedure.
- 17.120.120 Conflicts of interest and ex parte contacts.
- 17.120.130 Order of hearing procedures.
- 17.120.140 Official notice.
- 17.120.150 Challenge for bias or conflicts.
- 17.120.160 Authority of hearings officer.
- 17.120.170 Quorum.
- 17.120.180 Fees.
- 17.120.190 Interpretation.
- 17.120.200 Enforcement.
- 17.120.210 Violations.
- 17.120.220 Penalty.

#### 17.120.010 Purpose.

The provisions of this chapter provide standard procedures for the activation and decision-making process for planning and land use actions.

#### 17.120.020 Types of procedures and actions.

Types of procedures and actions include:

- A. Permits or actions that may occur or be approved administratively;
- B. Permits or actions that require plan review, site review, design review or other review at regularly scheduled public meetings;
- C. Permits or actions which may occur only after approval resulting from a public hearing.

#### 17.120.030 Applications.

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

17.120.040 Time limit on action on applications.

- A. Except as provided in subsections D and E of this section, the city shall take final action on an application for a permit or zone change, including resolution of all appeals under ORS 227.180, within one hundred twenty (120) days after the application is deemed complete.
- B. If an application for a permit or zone change is incomplete, the city or its designate shall notify the applicant of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed incomplete and void for the purposes of subsection A of this section on the 31st day after the city mailed or delivered notification to the applicant of the required additional information.
- C. If the application was complete when first submitted or the applicant submits the requested additional information within one hundred eighty (180) days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- D. The one hundred twenty (120) day period set in subsection A of this section may be extended for a reasonable time at the written request of the applicant.
- E. The one hundred twenty (120) day period set in subsection A of this section applies only to decisions wholly within the authority and control of the governing body of the city. This does not apply to an amendment to the city's acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the director of DLCD under ORS 197.610(1).
- F. Local government has one hundred twenty (120) days to take final action on an application for a permit or zone change unless the parties have agreed to mediation as described in ORS 197.318(2)(b).
- G. If the governing body of the city or its designate does not take final action on an application for a permit or zone change within one hundred twenty (120) days after the application is deemed complete, the applicant may apply in the circuit court of the county where the application was filed for a writ of mandamus to compel the governing body or its designate to issue the approval. The writ shall be issued unless the governing body shows that the approval would violate a substantive provision on the city comprehensive plan or land use regulation as defined in ORS 197.015.

17.120.050 Administrative review and approval process.

The planning director or other staff as designated by the city manager shall have the authority to review and approve or deny zoning compliance permits, or other permits for activities which are listed as permitted uses in all zones and overlay zones.

- A. Forms. The forms identifying zoning compliance include the zoning compliance for building and the local government approval section of the building permit application.
- B. Administrative Decisions. A decision on a permit that may be administratively approved shall occur within ten (10) working days after receipt of a complete application.
- C. The planning director may submit applications that normally could be approved administratively to the planning commission.

17.120.060 Limited land use decisions, permits or actions.

- A. The planning commission conducts plan reviews, site reviews, design reviews and other reviews for land use activities in the following zoning districts: controlled development-1 (CD-1), controlled development-2 (CD-2), controlled development residential-1 (CD-R1), controlled development residential 2 (CD-2), light industrial and heavy industrial.
- B. The reviews described in subsection A occur during regularly scheduled public meetings, unless otherwise specified, and are required for land use proposals and their relationship to design, siting and other features as described in the appropriate areas of the zoning text. The decisions resulting from these public meetings are based upon the discretionary standards provided to regulate land uses in their appropriate zoning district. The decisions resulting from the public review are considered to be limited land use decisions.
- C. Complete applications will be reviewed by the Planning Department staff and scheduled for Planning Commission review as soon as practical, considering other previously submitted applications and requirements for public notification and hearings.
- D. Upon review and determination by city staff that the application is complete, a staff report may be prepared seven (7) days prior to the date of review.

17.120.070 Notice requirements for public land use reviews or limited land use decisions.

Written notice for a public land use review or limited land use decision shall be provided to, where applicable, owners of property within one hundred (100) feet of the entire contiguous site for which the application is made. This list shall be compiled from the most recent property tax assessment roll on file with the city;

- A. A fourteen (14) day comment period, as specified in ORS 197.195 (3)(c)(a), shall be provided.
- B. The notice shall provide a summary of the request, a description and/or address of the site or subject property, the review criteria, the date, time and place of the review.
- C. The application and staff report (if one is prepared) are to be available throughout the comment period for review and copies shall be available at cost.
- D. Notice of the decision shall be provided to any individual who submits comments under subsection A of this section.
- E. Notice of the decision shall include a brief summary of the criteria, the decision and the explanation of right of appeal.

17.120.080 Permits or land use approvals which require a public hearing.

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



17.120.090 Notice of public hearing.

- A. Notice for a quasi-judicial land use hearing for a zone change or permit or an appeal of a decision of the planning director or planning commission shall be provided to (where applicable):
  - 1. The public via a legal notice published in a newspaper of general circulation in the city at least ten (10) days prior to the hearing;
  - 2. The applicant (and/or appellant, if applicable);
  - 3. Participants in the hearing;
  - 4. Owners of record on the most recent property tax assessment roll of property with-in two hundred fifty (250) feet of the property which is the subject of the notice; and
  - 5. Public agencies, when applicable.
- B. The notice shall:
  - 1. Explain the nature of the application and the proposed use or uses which could or have been authorized;
  - 2. List in general terms the applicable criteria from this title and the plan that apply to the application at issue;
  - 3. Set forth the street address or other easily understood geographical reference to the subject property;
  - 4. State the date, time and location of the hearing;
  - 5. State that failure to raise an issue with sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal on that issue;
  - 6. Be mailed at least twenty (20) days before the first evidentiary hearing before the planning commission or city council, or upon appeal of any hearing;
  - 7. Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
  - 8. State that a copy of the application, the documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - 9. State that a copy of the staff report will be available for inspection at least seven days before the hearing at no cost and will be provided at reasonable cost;
  - 10. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- C. Failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such a notice was sent.
- D. For all quasi-judicial land use hearings, notice shall be published seven and not more than twenty (20) days in advance.
- E. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
- F. For each quasi-judicial land use hearing, an affidavit shall be completed representing that the required notice was provided to the appropriate individuals.
- G. Any party who would have had a right to receive notice if a hearing had been scheduled or who is adversely affected or aggrieved by the decision may appeal a hearing officer's or planning director's decision. Under this section, such an appeal shall be to the planning commission and shall be de novo.

17.120.100 Availability of hearings information.

- A. The documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time the notice is provided as per Section 17.120.090.
- B. Interested parties are, as required by ordinance or statute, entitled to an opportunity to be heard by a tribunal that is impartial, to have the proceedings recorded and to have a decision based on evidence in the whole record and defined by findings of fact.
- C. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.
- D. No person shall speak without obtaining permission from the hearings officer.
- E. No person shall testify without first receiving recognition from the hearings officer and stating his or her full name and residence address.
- F. The hearings officer may require participants to sign a form and furnish their resident address prior to offering verbal testimony.
- G. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by the city staff shall be deemed relevant, material and competent unless objected to by any interested party with good cause and at the first available opportunity.
- H. There shall be no audience demonstrations, such as applause, cheering, display or signs, or other conduct disruptive to the hearing. Such conduct may be cause for expulsion of those parties conducting the disruptive activity or immediate termination of the hearing by the commission.
- I. The hearings officer, commission members and, with the approval of the hearings officer, city staff may question and cross-examine any person present who offers testimony in writing or orally.

17.120.110 Hearings procedure.

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

17.120.120 Conflicts of interest and ex parte contacts.

- A. A member of the commission shall not participate in any proceedings, hearing or action as a member of the commission in an action or hearing in which any of the following parties has a direct or substantial financial interest or when any of the following situations exist:
1. The member or his or her spouse, brother, sister, child, parent, father-in-law, or mother-in-law;
  2. Any business in which the member is then serving or has served within the previous two years;
  3. Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment;
  4. If the commission member owns property within the notice area for that hearing; or
  5. For any other reason the commission member has determined that he or she cannot participate in the hearing and decision in an impartial manner.
- B. An abstaining or disqualified commission member may represent himself or herself, a client or any other member of the public at a hearing, provided he/she:
1. Abstains from the vote of the proposal;
  2. Removes himself or herself from the commission area and joins the audience;
  3. Makes full disclosure of his or her status and position at the time of addressing the commission.
- C. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.
- D. No decision or action of a planning commissioner or city council member shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:
1. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
  2. Makes a public announcement during the hearing of the content of the ex parte contact and gives an opportunity to rebut the substance of the information.
- E. A communication between city staff and the planning commission or city council is not to be considered an ex parte contact for the purposes of subsection D of this section.
- F. No officer or employee of the city who has a financial or other private interest shall participate in discussion with or give an official opinion to the commission on the proposal without first declaring for the record the nature and extent of such interest.

17.120.130 Order of hearing procedures.

The hearings officer, in conducting the hearing, shall:

- A. Commence the hearing: Announce the nature and purpose of the hearing, summarize the rules for the conduct of the hearing;
- B. Call for abstentions: Inquire of the commission whether any member thereof wishes to abstain from participating in the hearing. Any commission member then announcing his or her abstention shall identify the reasons for abstaining and shall not participate in discussion of the proposal (from the commission chair) or vote on the proposal and shall step down from the commission area;
- C. Objections to jurisdiction or procedural challenges: Inquire of the audience whether there

are any objections to the jurisdiction of the commission to hear the matter and, if such objections are received, conduct such further inquiry as necessary to determine the question. The hearings officer shall terminate the hearing if his or her inquiry results in substantial evidence that the commission lacks jurisdiction or the procedural requirements of this title were not met. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the commission;

- D. Reading of the staff report and hearings requirements: Summarize the nature of the proposal, explain any graphic or pictorial displays which are a part of the record, summarize the staff report and provide such other information as may be requested by the commission. The hearings officer may direct staff to perform this duty;
- E. Proponent's case: Determine whether the proponent will conduct his or her case in person or by representative. The applicant (proponent) shall first be heard and persons in favor of the proponent's proposal shall next be heard;
- F. Cross-examination of proponents: Allow opponents, upon recognition by the hearings officer, to submit questions directly to the proponents. Proponents shall be given a reasonable time to respond solely to the questions.
- G. Opponent's case: Opponents shall be heard in the following order:
  - 1. Groups represented by counsel or a spokesperson shall be allowed by the hearings officer to first proceed,
  - 2. Persons who received notice of the hearing or who were entitled to receive notice,
  - 3. Persons who did not receive notice and who were not entitled to notice;
- H. Cross-examination of opponents: Allow proponents, upon recognition of the hearings officer, to submit questions to opponents who have testified. Opponents shall be given a reasonable time to respond solely to the questions;
- I. Public agencies: Invite representatives of any city, state agency, regional authority or municipal or quasi-municipal corporation existing pursuant to law to next be heard;
- J. Rebuttal evidence: Allow first the proponent and then the opponents to offer rebuttal evidence and testimony;
- K. Close hearing and deliberation by commission: The hearings officer shall close the hearing and the commission shall deliberate the proposal. The commission shall either make its decision and state its findings, which may incorporate findings proposed by the proponent, opponents, the staff, or may continue its deliberations to a subsequent meeting as aforesaid. The subsequent meeting shall be for the purpose of continued deliberation and/or adoption of findings of fact and shall not allow for additional submission of testimony except upon decision of the commission to reopen the hearing.

17.120.140 Official notice.

- A. The commission may take official notice in the record of a hearing of any of the following:
  - 1. All facts which are judicially noticeable; and
  - 2. The Charter, ordinances, resolutions, rules, regulations and official policies (if written) of the city of Bandon.
- B. Matters officially noticed need not be established by evidence and may be considered by the commission in the determination of the proposal.

17.120.150 Challenge for bias or conflicts.

Any proponent or opponent of a proposal to be heard by the commission may challenge the qualifications of any commission member to participate in such hearing and decision. Such challenge must state facts in writing, by affidavit, that are relied upon by the submitting party relating to a commission member's bias, 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 forty-eight (48) hours prior to the proceeding.
- B. Such challenge shall be noted in the record.
- C. The commission member who is challenged may state on the record why he or she feels the challenge is wrong.

17.120.160 Authority of hearings officer.

The hearings officer shall have authority to:

- A. Rule on challenges to disqualify a commission member;
- B. Regulate the course and decorum of the hearing;
- C. Dispose of procedural requests or similar matters;
- D. Rule on offers of proof and relevancy of evidence and testimony;
- E. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations, cross-examination of witnesses and rebuttal testimony; and
- F. Take other action authorized by the council appropriate for conduct commensurate with the nature of the hearing.

17.120.170 Quorum.

- A. A majority of the commission shall constitute a quorum.
- B. An abstaining or disqualified commission member may be counted for the purpose of forming a quorum.

17.120.180 Fees.

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

17.120.190 Interpretation.

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

17.120.200 Enforcement.

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

conflict with the provisions of this title shall be void.

17.120.210 Violations.

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

17.120.220 Penalty.

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

## Chapter 17.124

### APPEALS

#### Sections:

- 17.124.010 Requirements and procedures for appeals.
- 17.124.020 Review of records.
- 17.124.030 Appeals including additional evidence or de novo hearings.
- 17.124.040 Notice of final decision.

#### 17.124.010 Requirements and procedures for appeals.

- A. An appeal of an administrative decision shall be made to the planning commission.
- B. An appeal of a planning commission decision shall be made to the city council. A party to the action of the commission may appeal the action to the city council by filing a written notice of appeal with the city recorder within ten (10) days of the notice of decision being mailed. Within twenty (20) days following the date of a decision by the commission, the City Council may, on its own motion, initiate proceedings to review the decision.
- C. An appeal of a decision shall contain the following:
  - 1. An identification of the decision sought to be reviewed, including the name, site, location information and the date of the decision;
  - 2. A statement of the interest of the person seeking the review and that the individual was a party to the initial proceedings;
  - 3. The specific grounds upon which the review and appeal are being based. The criteria against which the appeal and review are being requested were addressed during the original determination.
- D. Scope of Review. The reviewing body shall determine, as a nonpublic hearing item, that the scope of the review and appeal will be one of the following:
  - 1. Restricted to the record of the decision being appealed;
  - 2. Limited to the admission of additional evidence on such issues of additional evidence as the reviewing body determines necessary for a proper resolution of the matter;
  - 3. A *de novo* hearing on the merits of the appeal.

#### 17.124.020 Review of records.

- A. Unless otherwise provided for by the reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include the following:
  - 1. A factual report prepared by the city manager;
  - 2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;
  - 3. The final order and findings of fact adopted in support of the decision being appealed;
  - 4. The request for an appeal filed by the appellant;

5. The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.
- B. All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issue(s) that are the subject of the review.
- C. The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.
- D. In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.
- E. The appellant shall bear the burden of proof.

17.124.030 Appeals including additional evidence or de novo hearings.

- A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:
  1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or
  2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and
  3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.
- B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of public hearings.
- C. All testimony, evidence and other material from the record of the previous considerations shall be included in the record of the review.

17.124.040 Notice of final decision.

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