CITY OF CANNON BEACH
AGENDA

Meeting: City Council
Date: Tuesday, May 7, 2024
Time: 6:00 p.m.
Location: Council Chambers, City Hall

CALL TO ORDER AND APPROVAL OF AGENDA

CONSENT AGENDA

Minutes will be considered at the May 14th meeting.

PUBLIC COMMENT

The Presiding Officer will call for statements from citizens regarding issues relating to the City. The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.

PRESENTATION

(1) DOGAMI Presentation on the Risk Assessment and Hazards of Community Evacuation During a Cascadia Event in Cannon Beach

ORDINANCE

(2) Ordinance 24-03 an Ordinance Amending Cannon Beach Municipal Code to Adopt Limitations of Liability for Certain Claims Arising from the Use of Trails or Structures within Public Easements and Unimproved Rights of Way Under ORS 105.668
If Council wishes to adopt Ordinance 2-03 the appropriate motions are in order

(3) Ordinance 24-04 an Ordinance Repealing City of Cannon Beach Municipal Code Chapter 2.08, Public Contracting Rules, Declaring an Emergency, and Stating an Effective Date and Resolution 24-09 A Resolution Adopting Updated Public Contracting Rules
If Council wishes to adopt Ordinance 24-04 and Resolution 24-09 the appropriate motions are in order

PROCLAMATION

(4) Proclamation 24-07; National Public Works Week
If Council wishes to adopt Proclamation 24-07 an appropriate motion is in order

(5) Proclamation 24-08; Emergency Medical Services Week
If Council wishes to adopt Proclamation 24-08 an appropriate motion is in order

(6) Proclamation 24-09; Proclaiming June 2024 as Sandcastle Month
If Council wishes to adopt Proclamation 24-09 an appropriate motion is in order

PUBLIC HEARING

(7) Public Hearing for ZO 23-02 City of Cannon Beach request for Zoning Ordinance text amendments to Chapter 17.43 Wetland Overlay Zone.
Council will hold a hearing to consider ZO 23-02.

(8) Public Hearing for ZO 24-01 City of Cannon Beach request for a text amendment to Municipal Code Chapter 17, Zoning. The request is for a general reorganization of the zoning ordinance and combination with chapter 16, Subdivisions.
Council will hold a hearing to consider ZO 24-01.

ACTION ITEMS

(9) Temporary Structure for City Hall and Police Station

INFORMATIONAL/OTHER DISCUSSION ITEMS

(10) Monthly Status Report

(11) Mayor Communications

(12) Councilor Communications

(13) Good of the Order

ADJOURNMENT

To join from your computer, tablet or smartphone
Join Zoom Meeting
https://zoom.us/j/99261084699?pwd=TkpjbGcxS0pCOGlMOCtSbSsxVWFMZz09
Meeting ID: 992 6108 4699
Password: 365593

To join from your phone:
Phone: 1.669.900.6833
Meeting ID: 992 6108 4699
Password: 365593

View Our Live Stream: View our **Live Stream** on YouTube!

Public Comment: If you wish to provide public comment via Zoom for this meeting please use the raise your hand Zoom feature. Except for a public hearing agenda item, all Public to be Heard comments will be taken at the beginning of the meeting for both Agenda and Non-Agenda items. If you are requesting to speak during a public hearing agenda item, please indicate the specific agenda item number as your comments will be considered during the public hearing portion of the meeting when the public hearing item is considered by the Council. All written comments received by 3:00 pm the day before the meeting will be distributed to the City Council and the appropriate staff prior to the start of the meeting. These written comments will be included in the record copy of the meeting. Written comments received at the deadline will be forwarded to Council and included in the record, but may not be read prior to the meeting.

Please note that agenda items may not be considered in the exact order listed. For questions about the agenda, please contact the City of Cannon Beach at (503) 436.8052. The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Manager at (503) 436.8050. TTY (503) 436-8097. This information can be made in alternative format as needed for persons with disabilities.
Posted: 2024.04.30

CANNON BEACH CITY COUNCIL

STAFF REPORT

DOGAMI PRESENTATION ON THE RISK ASSESSMENT AND HAZARDS OF COMMUNITY EVACUATION DURING A CASCADIA EVENT IN CANNON BEACH

Agenda Date: May 7, 2024 **Prepared by:** Rick Hudson, Emergency Manager

BACKGROUND

Emergency Management will be hosting DOGAMI for a presentation on the risk assessment and hazards of community evacuation during a Cascadia event in Cannon Beach. This assessment will be designed to evaluate future planning and mitigation efforts for emergency management and city officials. Focus will be on the need to update the FIR St bridge and to consider Vertical Escape Structures possibilities.

CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF ORDINANCE 24-03 AN ORDNANCE AMENDING CANNON BEACH MUNICIPAL CODE TO ADOPT LIMITATION OF LIABILITY FOR CERTAIN CLAIMS ARISING FROM THE USE OF TRAILS OR STRUCTURES WITHIN PUBLIC EASEMENTS AND UNIMPROVED RIGHTS OF WAY UNDER ORS 105.668

Agenda Date: May 7, 2024 **Prepared by:** Bruce St. Denis, City Manager

BACKGROUND

ORS 105.668 limits the liability of cities for personal injury and property damage that arises out of the public's non-motorized use of trails or structures in public easements and unimproved rights of way. Cities with populations of less than 500,000 must adopt the limitation of liability via ordinance or resolution. At the April 16th meeting, City Attorney Ashley Driscoll presented the draft ordinance. The Council consensus was to proceed with the ordinance at the May 7th meeting.

ANALYSIS/INFORMATION

Ordinance 24-03 is attached for Council adoption.

RECOMMENDATION

Staff recommends Council adopt Ordinance 24-03

Recommended motions:

"I move to approve the first reading of Ordinance No. 24-03"

"I move to approve the second reading and adopt Ordinance No. 24-03"

List of Attachments

A Ordinance 24-03

BEFORE THE COMMON COUNCIL OF CANNON BEACH

AN ORDINANCE AMENDING CANNON BEACH TO ADOPT LIMITATION OF LIABILITY FOR CERTAIN CLAIMS ARISING FROM THE USE OF TRAILS OR STRUCTURES WITHIN PUBLIC EASEMENTS AND UNIMPROVED RIGHTS OF WAY UNDER ORS 105.668	))))))	ORDINANCE NO. 24-03

WHEREAS, ORS 105.668(2) limits the liability of cities, adjacent property owners, and certain non-profit groups for injuries or property damage that result from the public's non-motorized use of trails or structures that are in a public easement or an unimproved right of way; and

WHEREAS, ORS 105.668(3) authorizes cities with populations less than 500,000 to adopt such limitation of liability by ordinance; and

WHEREAS, Cannon Beach's population is less than 500,000; and

WHEREAS, Cannon Beach has trails or structures within its public easements and unimproved rights of way that may be used by the public for non-motorized activities such as walking, hiking, or biking; and

WHEREAS, Cannon Beach finds that the Cannon Beach's trails and structures are an important public amenity, that the public's use of such trails or structures is important for the health and enjoyment of the community, and that use should be encouraged; and

WHEREAS, Cannon Beach finds that it is important to protect Cannon Beach, adjacent property owners, and certain nonprofit groups who provide the public with access to and perform maintenance for such trails and structures so that the public may continue to access such trails and structures; and

WHEREAS, Cannon Beach finds that adopting the limitation of liability in ORS 105.668(2) will provide Cannon Beach, adjacent property owners, and nonprofit groups with such protection and will encourage the public's continued use of trails and structures in Cannon Beach's public easements and unimproved rights of way.

NOW, THEREFORE, THE CITY OF CANNON BEACH ORDAINS AS FOLLOWS:

Section 1. Findings. The above findings are hereby adopted.

Section 2. Limitation on Liability. The Cannon Beach Municipal Code is hereby amended as shown on the attached Exhibit A.

Section 3. Severability. If any provision, section, phrase, or word of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does in

affect other provision that can be given effect without the invalid provision or application.

Section 4. Continued Effect. All other provisions of the Cannon Beach Municipal Code shall remain unchanged and in full effect.

Section 5. Effective Date. This Ordinance shall be effective on the 30th day following its passage.

Ordinance adopted by the City Council of the City of Cannon Beach on this 7th day of May, 2024 by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

_____
Barbara Knop, Mayor

Attest:

_____
Bruce St. Denis, City Manager

Approved as to Form:

_____
Ashley Driscoll, City Attorney

EXHIBIT A

Title 12 Streets, Sidewalks and Public Places

Chapter 12.44 Limitations of Liability

12.44.010 Definitions.

As used in this limitation of liability section, the following definitions apply:

A. "Public easement" means a platted or dedicated easement for public access that is accessible by a user on foot, horseback, bicycle, or other similar conveyance, but does not include a platted or dedicated public access easement over private streets.

B. "Structures" means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.

C. "Trail" means a travel way for pedestrians, bicycles, and other non-motorized means of transportation.

D. "Unimproved right of way" means a platted or dedicated public right of way over which a street, road or highway has not been constructed to the standards and specifications of the city with jurisdiction over the public right of way and for which the city has not expressly accepted responsibility for maintenance.

12.44.010 Liability Limited.

A. A personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:

1. The City of Cannon Beach.

2. City of Cannon Beach officers, employees, or agents to the extent that the officers, employees, or agents are entitled to defense and indemnification under ORS 30.285.

3. The owner of land abutting the public easement or unimproved right of way.

4. A nonprofit corporation and its volunteers for the construction and maintenance of the trail or structures in a public easement or unimproved right of way.

B. The immunity granted by this section does not extend to:

1. Except as provide by subsection [(A)(2)] of this section, a person that receives compensation for assistance, services, or advice in relation to conduct that leads to a personal injury or property damage.

2. Personal injury or property damage resulting from gross negligence or from reckless, wanton, or intentional misconduct.

3. An activity for which a person is strictly liable without regard to fault.

CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF ORDINANCE 24-04 AN ORDINANCE REPEALING CITY OF CANNON BEACH MUNICIPAL CODE CHAPTER 2.08, PUBLIC CONTRACTING RULES, DECLARING AN EMERGENCY, AND STATING AN EFFECTIVE DATE AND RESOLUTION 24-09 A RESOLUTION ADOPTING UPDATED PUBLIC CONTRACTING RULES

Agenda Date: May 7, 2024 **Prepared by:** Karen La Bonte, Public Works Director

BACKGROUND

Last year, the Oregon legislature increased certain public contracting procurement thresholds for the state of Oregon. These changes caused the procurement thresholds in the current Cannon Beach Municipal Code chapter 2.08 to be lower than the new thresholds adopted by the legislature. In addition, while reviewing the CMMC Chapter 2.08 in this context, staff and legal counsel noticed several other elements of the rules that should be similarly updated or clarified.

ANALYSIS/INFORMATION

The current CBMC 2.08 has not been updated since 2013, and therefore the City legal counsel recommends certain changes in order to bring it in line with current state dollar thresholds and other public contracting requirements.

As a reminder, the city is allowed to award small procurements directly, and can award immediate procurements using an informal process.

At the April 9, 2024 Council Work Session, the City's legal counsel reviewed the following proposed changes.

- Remove the City's local contracting rules from the CBMC and instead adopt them as a rule, via resolution.
- Establish a spending authority threshold over which public contracts must be approved by City Council
- Clarify a procurement process, as permitted by state law, for personal services and construction-related personal services.
- Consolidate and clarify the procurement and exemption process for public improvements, goods, and services.
- Clarify electronic advertising requirements and concession agreements.

- Remove unnecessary or duplicative sections from the rules, and otherwise add clarifying and grammatically correct language.

During the April 9th work session, the Council agreed to the proposed changes and directed staff to bring back the final revised Ordinance along with the accompanying Resolution for an official vote.

RECOMMENDATION

After review and discussion, staff recommends Council approve the revised ordinance and associated resolution.

Recommended motions:

"I move to approve the first reading of Ordinance No. 24-04"

"I move to approve the second reading and adopt Ordinance No. 24-04"

"I move to approve Resolution 24-09 a Resolution adopting updated public contracting rules.

List of Attachments

A Ordinance 24-04
B Resolution 24-09
C Redlined version of RES 24-09 Exhibit A against the City's original Municipal Code Ch. 2.08

BEFORE THE COMMON COUNCIL OF CANNON BEACH

AN ORDINANCE REPEALING CITY OF CANNON BEACH MUNICIPAL CODE CHAPTER 2.08, PUBLIC CONTRACTING RULES, DECLARING AN EMERGENCY, AND STATING AN EFFECTIVE DATE	)))))	ORDINANCE NO. 24-04

WHEREAS, the City of Cannon Beach (City) currently houses its public contracting rules within its Municipal Code, Chapter 2.08; and

WHEREAS, the City desires greater flexibility in amending those rules, and as such desires to completely repealed Chapter 2.08, to be replaced with the rules adopted by Resolution No. 24-09; and

WHEREAS the City Council of the City accordingly finds it necessary to repeal Chapter 2.08, Public Contracting Rules.

NOW, THEREFORE, THE CITY OF CANNON BEACH ORDAINS AS FOLLOWS:

Section 1: This Ordinance shall hereby repeal Chapter 2.08, Public Contracting Rules, of the Cannon Beach Municipal Code.

Section 2: The general welfare of the public will be promoted if this Ordinance takes effect immediately. Therefore, an emergency is declared and this Ordinance shall take effect immediately upon its passage by the Council and approval by the Mayor.

Ordinance adopted by the City Council of the City of Cannon Beach on this 7th day of May, 2024 by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

_____
Barbara Knop, Mayor

Attest:

_____
Bruce St. Denis, City Manager

Approved as to Form:

_____
Ashley Driscoll, City Attorney

BEFORE THE CITY OF CANNON BEACH

A RESOLUTION ADOPTING UPDATED PUBLIC CONTRACTING RULES	))	RESOLUTION NO. 24-09

WHEREAS, the City of Cannon Beach (City) previously housed its public contracting rules within its Municipal Code, Chapter 2.08; and

WHEREAS, the City desires greater flexibility in amending those rules, and as such has completely repealed Chapter 2.08, via Ordinance No. 24-04, to be replaced with **Exhibit A** to this Resolution; and

WHEREAS, recently the Oregon Public Contracting Code has been amended in part to permit new approaches for the City when it solicits the services of certain professionals in the context of construction projects (e.g. architects and engineers);

WHEREAS, Senate Bill 1047 increased the minimum procurement thresholds for small, intermediate, and large goods, services, and public improvement procurements;

WHEREAS, the City anticipates significant public projects in the near future that will require the City to solicit and procure the services of professional consultants, including but not limited to architects, surveyors, engineers, and general contractors;

WHEREAS, the City recognizes the need to ensure that procurement of these services is consistent with Oregon laws and rules governing such procurement;

WHEREAS, the City attorney completed a review of the current contracting and procurement rules and identified a number of areas that she recommends updating, simplifying, or otherwise amending; and

WHEREAS, through this Resolution, the City adopts rules related to the procurement goods and services, personal services, public improvements, and construction-related personal services, raises the dollar thresholds that apply to the solicitation of such public contracts, and makes other housekeeping changes to the City's contracting and procurement rules.

NOW THEREFORE, BE IT RESOLVED:

1. That the City Council adopts the Public Contracting Rules for the City attached as **Exhibit A;** and

2. That this Resolution shall become effective immediately upon adoption.

PASSED by the Common Council of the City of Cannon Beach this XX day of May 2024, by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

Barb Knop, Mayor

Attest:

Bruce St. Denis, City Manager

Exhibit A

Cannon Beach Local Contracting Rules

("Rules")

Section 1 - Policy.

A. Purpose. These Rules are adopted by the city council as the governing body and local contract review board of the City of Cannon Beach for the purpose of establishing the rules and procedures for public contracts procured and entered into by the City. It is the policy of the City in adopting these Rules to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

1. Promoting impartial and open competition;

2. When the solicitation is in writing, using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and

3. Taking full advantage of procurement methods that suit the contracting needs of the City.

B. Interpretation of Public Contracting Rules. Except as specifically provided in these Rules, the City shall award, administer, and govern public contracts according to ORS Chapters 279A, 279B, and 279C (the "Public Contracting Code") and the Attorney General's Model Public Contract Rules ("Model Rules"), as they now exist and may be amended in the future. In furtherance of the purpose of the objectives set forth in subsection A, it is the City's intent that these Rules be interpreted to authorize the full use of all contracting powers and authorities described in the Public Contracting Code. The Model Rules shall apply to the contracts of the City to the extent they do not conflict with these Rules. In the event of a conflict between any provisions of these Rules and the Public Contracting Code, the provisions of the Public Contracting Code shall prevail. In the event of a conflict between any provisions of these Rules and the Model Rules, the provisions of these Rules shall prevail unless the Public Contracting Code requires otherwise.

Section 2 - Contract Review Board.

The City Council is designated as the local contract review board of the City and has all of the rights, powers and authority necessary to carry out the provisions of these Rules, the Public Contracting Code and the Model Rules, except as otherwise provided herein.

Section 3 - Contracting Authority and Responsibilities.

A. The City Manager is designated as the contracting agent for the City. The City Manager may delegate the authority granted under this subsection to department

heads of the City as the City Manager deems appropriate to conduct city business. For purposes of these Rules, “city manager” collectively refers to the City Manager of the City of Cannon Beach and his or her delegee.

B. Subject to these Rules, the City Manager is authorized to adopt forms, computer software, procedures, and administrative policies and procedures for all City purchases. All contracting by departments must be done in accordance with the procedures and policies adopted by the City Manager or the city council, as the case may be.

C. Purchases of goods from city employees require authorization of the City Manager.

D. Each department must operate within its budget, or seek supplemental budget authority from City Council.

E. Departments shall communicate purchase requirements and plan sufficiently in advance so that orders can be placed in economical quantities.

F. Contracts shall be negotiated on the most favorable terms in accordance with these Rules, other adopted ordinances, state laws, policies and procedures.

G. All contracts and subsequent amendments estimated to cost more than $100,000 must be approved by City Council. All public contracts and subsequent amendments estimated to cost $100,000 or less in may be entered into by the City Manager without Council approval.

Section 4 - Federal Law.

Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Public Contracting Code, the Model Rules, or these Rules, or otherwise require additional conditions in public contracts not authorized on a state or local level.

Section 5 - Personal Services (Other than Construction-Related Personal Services).

A. Definition. “Personal services” means services requiring professional or special training or certification, independent judgment, skill and experience, including, but not limited to, attorneys; accountants; auditors; computer programmers; artists; designers; performers; and consultants. The City Council or the City Manager, as the case may be depending on the value of the contract, has discretion to determine whether a particular type of contract or service is a personal services contract. For the purpose of these Rules, personal services do not include Construction-Related Personal Services.

B. Large Procurements. When the estimated payment to the contractor for personal services is above $250,000, the City shall seek competitive sealed proposals in accordance with OAR 137-047-0260.

C. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the personal service contractor is equal to or less than $250,000 and above $25,000. The City Manager will contact a minimum of three (3) prospective contractors qualified to offer the personal services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

D. Small Procurements. The City Manager may enter personal service contracts when the estimated payment is less than $25,000 in any manner the City Manager finds practical or convenient, including direct selection or award. However, the City Manager must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Notwithstanding anything to the contrary in these Rules, the following personal services contracts may be directly appointed.

1. Personal Services Contracts for Continuation of Work. The City Manager may enter into a personal services contract or contract amendment directly with the contractor if the work described in the contract consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier contract with the contractor that was awarded in accordance with these Rules and the new contract is a continuation of that work, provided that such continuation does not reflect an artificial divide or fragmentation of the procurement.

2. Legal Services. Personal services contracts for legal services may be entered into directly by the city manager.

Section 6 - Contracts for Construction-Related Personal Services.

A. Purpose. This Section implements ORS 279C.100 to 279C.125. The City will rely on these Rules, not the Model Rules, for a contract with an architect, engineer, photogrammetrist, land surveyor, as each is defined in ORS 279C.100, and (in very narrow instances) a transportation planner (collectively referred to herein as "Construction-Related Personal Services").

B. Applicability. This Section applies only to a Construction-Related Personal Service contract that meets the following criteria:

1. The estimated payment to the contractor exceeds $100,000; and

2. The contract is for a personal service that is *legally required* to be provided or performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor. For example: hiring an architect to design a building or hiring an engineer to design a wastewater system. Because the law requires licensed professionals to design buildings and infrastructure, the City may rely on this subsection to hire someone to perform those services. However, if the City is hiring an architect or engineer to perform project management services (for example), it may solicit and award such services under Section 5 of these Rules. *See* definition of "Related Services" below.

3. If either (1) or (2) above is not satisfied (i.e. the contract is for a personal service that is legally required to be provided by a licensed architect, etc. *but* is estimated to not exceed $100,000; *or* the contract will require an engineer, etc. to perform a Related Service) then the City may rely on Section 5 of these rules to solicit and award the contract.

C. Mixed contracts. Some contracts will contain a mixture of services covered by this Section (i.e. services that only the particular consultant may legally perform) and Related Services. Whether the City uses this Section or Section 5 to solicit and award a mixed contract will depend upon the predominate purpose of the contract. The City will determine the predominate purpose based upon either the amount of money it estimates it will spend for covered services versus Related Services or the amount of time it estimates that the consultant will spend working on covered services versus Related Services. If covered services predominate, the City will solicit the contract under this Section. If Related Services predominate, the City will solicit the contract under Section 5.

D. Small Procurements. For clarity's sake, the City Manager may enter Construction-Related Personal Service contracts when the estimated value is less than $100,000 in any manner the City Manager or their designee finds practical or convenient, including direct selection or award. However, the City Manager or designee must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Definitions. The following definitions apply to this Section:

1. "Transportation Planning Services" only includes project-specific transportation planning required for compliance with the National Environmental Policy Act, 42 USC 4321 et seq. and no other types of transportation planning services. By way of example only, Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation

plans not associated with an individual Project required to comply with the National Environmental Policy Act, 42 USC 4321 et. seq.

2. "Related Services" means personal services, other than architectural, engineering, photogrammetric, mapping, transportation planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land-use planning services. In other words, personal services that are *not required by law* to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor.

F. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the consultant for Construction-Related Personal Services is equal to or less than $250,000 and above $100,000. The City Manager will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests, to the most qualified consultant. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

G. Large Procurements.

1. When the estimated cost of the contract for Construction-Related Personal Services is greater $250,000, a contract shall be awarded following a qualifications based selection procedure focusing on the consultant's qualifications for the type of professional service required, taking into account the candidate's specialized experience, capabilities and technical competence; resources; record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration; ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability to the project locale; familiarity with the project locale; and proposed project management techniques.

2. Unless the City follows the process set forth in subsection (3) of this subsection, the City may not solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine

consultant compensation until after the City has selected a qualified professional for award.

3. Notwithstanding subsection (2) of this subsection, the City may request pricing policies or pricing proposals from prospective consultants, including an estimate of the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates, if the City:

    a. States in the following in its solicitation document:

        i. That the City will screen and select prospective consultants as provided in ORS 279C.110(5);

        ii. How the City will rank proposals from prospective consultants, with a specific focus on:

            (1) Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and
            (2) The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;
            (3) An estimate of the cost of professional services the City requires for the procurement; and
            (4) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.

    b. Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement;

    c. Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (ii) of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (i)(d) of this subsection from each of the top-ranked consultants. The pricing proposal must consist of:

        i. A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the

City requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

ii. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement.

d. Permits a prospective consultant identified as qualified under paragraph (c) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.

e. Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.

4. If the City and the professional are unable to negotiate a reasonable and fair amount of compensation, as determined solely by the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate and may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the contracting agency terminates the consultant contracting process.

Section 7 - Small Procurements for Goods and Services, and Public Improvements.

A. Public contracts for goods, services, or public improvements with an estimated value under $25,000 may be awarded by the City Manager in any manner deemed convenient, including by direct award. The City Manager shall make a reasonable effort to obtain competitive quotes in order to ensure the best value for the City.

B. Amendments to public contracts under this Section may not cause the contract price to exceed thirty-one thousand, two hundred and fifty dollars ($31,250).

C. A procurement may not be artificially divided or fragmented to avoid the requirements of this Section.

Section 8 - Intermediate Procurements for Goods and Services, and Public Improvements.

A. Public contracts for goods or services with an estimated value between $25,000 and $250,000, or for public improvement services with an estimated value between $25,000 and $100,000, may be awarded by the City Manager by contacting a minimum of three (3) prospective contractors qualified to offer the goods or services or

public improvement services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

B. Amendments to public contracts under this Section may not cause the contract price to exceed three hundred and twelve thousand, five hundred dollars ($312,500).

C. A procurement may not be artificially divided or fragmented to avoid the requirements of this Section.

Section 9 - City Public Improvements.

The City may undertake a public improvement using its own equipment and personnel if doing so will result in the least cost to the City or public. If the City decides to undertake a public improvement estimated to cost more than one hundred twenty-five thousand dollars ($125,000) using its own personnel and equipment, the city shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with ORS 279C.305.

Section 10 - Special Procurements, Sole Source, and Exemptions.

A. City Council may exempt from competitive bidding certain contracts or classes of contracts for procurement of goods, services, or personal services (other than Construction-Related Personal Services), according to the procedures described in ORS 279B.085. Protest of exemptions must be made in accordance with Section 15.

B. City Council may award a contract for goods, services, or personal services (other than Construction-Related Personal Services) from a single source if the goods, services, or personal services (other than Construction-Related Personal Services) are available from only one company, or the prospective company has special skills uniquely required for the provision of the goods or the performance of the services or personal services (other than Construction-Related Personal Services). The City must make written findings to demonstrate why the proposed company is the only company who can provide the goods or perform the services or personal services (other than Construction-Related Personal Services) desired, in general compliance with ORS 279B.075.

C. City Council may exempt certain contracts or classes of contracts for public improvements or Construction-Related Personal Services from competitive bidding according to the procedures described in ORS 279C.335. When exempting a public improvement from competitive bidding, the Local Contract Review Board may authorize the contract to be awarded using a Request for Proposal process for public improvements, according to the processes described in OAR 137-049-0640 through 137-049-0690. Protest of exemptions approved under this subsection must be made in accordance with Section 15.

D. The City has exempted the following classes of contracts from these public contracting requirements, subject to the following conditions:

1. Purchases of goods or services through federal programs pursuant to ORS 279A.180, in accordance with the following rules.

    a. The procurement must be made in accordance with procedures established by the Federal GSA for procurements by local governments and under purchase orders approved by the city council.

    b. The price of the goods or services must be less than the price at which the goods or services are available under state or local cooperative purchasing programs available to the city.

2. Contracts for the purchase or commissioning of works of art.

3. Subject to the terms of these Rules, contracts that are being renewed in accordance with their terms are not considered new contracts. However, for public contracts predominantly for services, one extension not exceeding the original term of the contract or annual renewals is permitted if provided in the contract.

Section 11 - Emergency Contracts.

A. "Emergency" shall be defined as follows: "Circumstances that (a) could not have reasonably been foreseen; (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and (c) require prompt execution of a contract to remedy the condition."

B. The Mayor or the City Manager shall have authority to determine when emergency conditions exist sufficient to warrant an emergency contract. Such authorized individual shall document the nature of the emergency and describe the method used for the selection of the particular contractor.

C. Emergency contracts may be awarded as follows:

1. Goods and Services, and Personal Services (other than Construction-Related Personal Services). Emergency contracts for procurement of goods and services and personal services may be awarded pursuant to ORS 279B.080.

2. Construction-Related Personal Services. Pursuant to ORS 279C.110(9), the City may directly appoint a Construction-Related Personal Service contract in an emergency

3. Public Improvements. The City hereby adopts OAR 137-049-0150 as its contracting rules for awarding a public improvement contract under emergency conditions.

Section 12 - Brand Name Specifications.

A. Consultation Permitted. The City may consult with technical experts, suppliers, prospective contractors and representative of the industries with which the City will contract. The City shall take reasonable measures to ensure that no person, or no business with which the person is associated, who prepares or assists in the preparation of solicitation documents, specifications, plans or scope of work (collectively, "documents"), realizes a material competitive advantage that arises from the City's use of those documents.

B. Use of Brand Name or Equal Specification.

1. A "brand name or equal" specification may be used when it is advantageous to the City, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City's determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean "brand name or equal."

2. A "brand name" specification may be used requiring a contractor to provide a specific brand when the City Manager makes the following findings:

   a. The use of a brand name specification is unlikely to encourage favoritism in the awarding of a public contract or substantially diminish competition for public contracts; or

   b. The use of a brand name specification would result in a substantial cost savings to the city; or

   c. There is only one manufacturer or seller of the product of the quality, performance or functionality required; or. Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

Section 13 - Local Preference Allowed in Evaluation of Bids or Proposals

When possible, the City Manager may provide a specified percentage preference of not more than ten percent for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon in any applicable solicitation documents. When a

preference is provided under this Section, and more than one offeror qualifies for the preference, the City Manager may give a further preference to a qualifying offeror that resides in or is headquartered in Oregon. The City Manager may establish a preference percentage of ten percent or higher if the City Manager makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence of good cause. The preferences described in this Section cannot be applied to a contract for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or other construction contracts.

Section 14 - Notice of Intent to Award and Protests.

A. At least seven days prior to the award of a public contract solicited under any invitation to bid or request for proposals, the City will post or provide to each bidder or proposer notice of the City's intent to award a contract. If stated in the solicitation document, the City may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of the City's intent. As an alternative, the City may provide written notice to each bidder or proposer of the City's intent to award a contract. This written notice may be provided electronically or through non-electronic means. The City may give less than seven days' notice of its intent to award a contract if the City determines in writing that seven days is impracticable.

B. This Section does not apply to any contracts or classes of contracts exempted from formal solicitation requirements.

C. A protest of the City's intent to award a contract may only be filed in accordance with OAR 137-047-0740, OAR 137-048-0240, or OAR 137-049-0450, as applicable. Protests to the City's intent to award a personal service contract under subsection A may only be filed in accordance with OAR 137-047-0740.

Section 15 - Protests of Exemptions.

A. Any person may file a protest of the approval of an exemption if they believe the approval was in violation of these Rules or the Public Contracting Code.

B. A protest must meet the following criteria:

1. It must be filed in writing with the City Manager not more than five days after approval.

2. It must state the exemption that is the subject of the protest, the reason why the approval was contrary to these Rules or state law, and the relief sought.

C. The City Council shall review and approve or disapprove of the protest within thirty days after the City Manager receives it. The City Manager shall notify the protester of the City Council's decision within five days after the City Council makes its decision.

D. Exhausting all protest options at a local level is a condition precedent to filing an associated action on a state level.

Section 16 - Surplus Property.

A. "Surplus Property" is defined as any personal property under the ownership or control of the City that has been determined by the appropriate authority as being of no further, or minimal use or value to the City.

B. The City Manager shall select the method of disposal which maximizes the value the city will realize from disposal of the Surplus Property. Surplus Property shall be disposed of as follows:

1. Sold to the highest qualified buyer meeting the sale terms when the value of each item so offered is less than two thousand dollars and the sale has been advertised in at least two public places and on the City's website not less than one week prior to the sale;

2. Traded in on the purchase of replacement equipment or supplies;

3. Sold at public auction advertised at least once in a newspaper of general circulation in the Cannon Beach area not less than one week prior to the auction. The published notice shall specify the time, place and terms upon which the personal property shall be offered and a general description of the personal property to be sold;

4. Sold at a fixed price retail sale if doing so will result in substantially greater net revenue to the City;

5. Contracted for use, operation or maintenance by one or more private or public entities. Prior to approval of such a contract, the City Manager shall determine that the contract will promote the economic development of the City.

6. By donation to any organization operating within or providing a service to residents of the City which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

7. Surplus Property that has a value of less than five hundred dollars, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by recycling and third-party public auction and, as the last option, by disposal as waste.

C. All Surplus Property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind. All bids submitted are irrevocable until the sale is over. For auction of items valued at over ten thousand dollars, the City Manager may require a bid bond.

D. Sales of Surplus Property may be conducted electronically.

E. An item (or individual set) of specialized and personal use Surplus Property, other than police officer's handguns, with a current value of less than one hundred dollars may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Manager.

F. Upon honorable retirement from service with the City, a police officer may purchase the handgun that he or she was using at the time of retirement. The purchase price shall be fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the City at least thirty days prior to the expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer, the City shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who will have up to thirty days from the date of retirement to purchase the handgun at the appraised fair market value.

G. City employees are not restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but are not permitted to offer to purchase the property to be sold to the first qualifying bidder until at least three days after notice of the sale is first publicly advertised.

Section 17 - Electronic Advertising.

A. Pursuant to ORS 279C.360 and ORS 279B.055, electronic advertisement of all public contracts in lieu of newspaper publication is authorized when it is cost-effective to do so. The City Manager shall have the authority to determine when electronic publication is appropriate, and consistent with the City's public contracting policies and these Rules.

B. Notwithstanding the foregoing, any advertisement for a public improvement contract with an estimated cost over $125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

Section 18 - Concession Agreements.

A. A "concession agreement" is a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon land owned by the City, and under which the concessionaire makes payments to the City based, in whole or in part, on the concessionaire's sales revenues. The term "concession agreement" does not include an

agreement which is merely a flat-fee or per-foot rental, lease, license, permit, or other arrangement for the use of public property.

B. Concession agreements are not required to be competitively bid. However, when it is in the City's best interests to do so, the City may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.

~~2.08.010~~Exhibit A

Cannon Beach Local Contracting Rules

("Rules")

Section 1 - Policy.

A. Purpose. ~~This chapter is~~These Rules are adopted by the city council as the governing body and local contract review board of the City of Cannon Beach for the purpose of establishing the rules and procedures for public contracts procured and entered into by the City. It is the policy of the City in adopting ~~this chapter~~these Rules to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

1. Promoting impartial and open competition;

2. When the solicitation is in writing, using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and

3. Taking full advantage of procurement methods that suit the contracting needs of the City.

B. Interpretation of Public Contracting Rules. Except as specifically provided in ~~this chapter,~~these Rules, the City shall award, administer, and govern public contracts ~~shall be awarded, administered and governed~~ according to ORS Chapters 279A, 279B, and 279C (the "Public Contracting Code") and the Attorney General's Model Public Contract Rules ("Model Rules"), as they now exist and may be amended in the future. In furtherance of the purpose of the objectives set forth in subsection A, it is the City's intent that ~~this chapter~~these Rules be interpreted to authorize the full use of all contracting powers and authorities described in ~~ORS Chapters 279A, 279B and 279C.~~the Public Contracting Code. The Model Rules ~~adopted by the Attorney General under ORS 279A.065~~ shall apply to the contracts of the City to the extent they do not conflict with ~~this chapter and the contracting rules and regulations adopted by the city.~~these Rules. In the event of a conflict between any provisions of ~~this chapter~~these Rules and the Public Contracting Code, the provisions of the Public Contracting Code shall prevail. In the event of a conflict between any provisions of ~~this chapter~~these Rules and the Model Rules, the provisions of ~~this chapter~~these Rules shall prevail unless the Public Contracting Code requires otherwise. ~~(Ord. 13-2 § 1)~~

Section 2~~.08.020~~ - Contract Review Board.

The City Council is designated as the local contract review board of the City and has all of the rights, powers and authority necessary to carry out the provisions of these Rules, the Public Contracting Code and the Model Rules~~. The city council is designated as~~

~~the city's contracting agency for purposes of contracting powers and duties assigned to the city as a contracting agency under the Public Contracting Code~~, except as otherwise provided ~~in this chapter. (Ord. 13-2 § 1)~~herein.

~~2.08.030~~Section 3 - Contracting Authority and Responsibilities.

A. The City Manager is designated as the contracting ~~agency~~agent for the City. The City Manager may delegate the authority granted under this subsection to department heads of the City as the City Manager deems appropriate to conduct city business. For purposes of these Rules, "city manager" collectively refers to the City Manager of the City of Cannon Beach and his or her delegee.

B. Subject to these Rules, the City Manager is authorized to adopt forms, computer software, procedures, and administrative policies and procedures for all City purchases. All contracting by departments must be done in accordance with the procedures and policies adopted by the City Manager or the city council, as the case may be.

C. Purchases of goods from city employees require authorization of the City Manager.

D. Each department must operate within its budget, or seek supplemental budget authority from City Council.

E. Departments shall communicate purchase requirements and plan sufficiently in advance so that orders can be placed in economical quantities.

F. ~~Purchases and~~ Contracts shall be negotiated on the most favorable terms in accordance with ~~this chapter~~these Rules, other adopted ordinances, state laws, policies and procedures.

~~2.08.040 Application of chapter.~~

~~This chapter does not apply~~G. All contracts and subsequent amendments estimated to ~~the following~~ cost more than $100,000 must be approved by City Council. All public contracts ~~or classes of contracts:~~

~~A. Between Governments. Contracts between the city~~ and ~~a public body as that term is defined~~subsequent amendments estimated to cost $100,000 or less in ~~ORS 279A.010(1)(y) or between the city and an agency of the federal government.~~

~~B. Grants. The application for or the making or receiving of grants. However, this chapter does apply to the expenditure of grant funds or hiring of grant writers.~~

~~C. Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or~~ may ~~become interested. These contracts may be procured directly by the city attorney. Contracts valued at over twenty-five thousand dollars are subject to approval of the city council.~~

~~D. Real Property. Acquisitions or dispositions of real property or interests in real property.~~

~~E. Finance. Contracts, agreements or other documents~~ be entered into~~, issued or established in connection with:~~

~~1. The incurring of debt~~ by the City~~, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited~~ Manager without Council approval.

~~2. The making of program loans and similar extensions or advances of funds, aid or assistance by the city to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements.~~

~~3. The investment of funds by the city council as authorized by law.~~

~~4. Banking, money management or other predominantly financial transactions of the city that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the city council. However, this chapter does not apply to the hiring of bond counsel and auditor services. Bond counsel and auditor services must be obtained under Section .~~

~~F. Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code. (Ord. 13-2 § 1)~~

~~2.08.050 Federal law.~~

~~Section 4 - Federal Law.~~

Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal

statutes or regulations conflict with any provision of the ~~Oregon~~ Public Contracting Code, the Model Rules, or these ~~regulations~~Rules, or otherwise require additional conditions in public contracts not authorized ~~by the Oregon Public Contracting Code~~on a state or ~~these regulations. (Ord. 13-2 § 1)~~local level.

~~2.08.060 Definitions.~~

~~As used in this chapter, the following words or phrases have the following meanings. All words and phrases not defined in this section have the meanings ascribed to them in the Public Contracting Code or the Model Rules:~~

~~"Electronic procurement system" means a remotely accessible electronic information system for conducting procurements electronically that may be established by the city manager in accordance with the Model Rules (OAR 137-047-0330; 137-049-0310).~~

~~"Emergency" means circumstances that could not have been reasonably foreseen; and create a risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.~~

~~"Informal quote" means procedure pursuant to which written or verbal offers are gathered by correspondence, telephone or personal contact stating the quantity and quality of goods or services to be acquired. The offers must be solicited in writing when this chapter requires a written solicitation. In soliciting informal quotes, the city manager shall seek quotes from a sufficiently large number of potential offerors to insure sufficient competition to meet the best needs of the city. An award based on less than three quotes may be made, provided the city manager makes a written record of the effort to obtain quotes. The contract must be awarded to the offeror who will best serve the interests of the city, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility under the applicable provisions of the Public Contracting Code. A written solicitation is required for contracts with an estimated value of fifty thousand dollars or more.~~

~~"Ordinary repairs and maintenance necessary to preserve a public improvement" means repairs and maintenance that typically do not prolong the lifespan of a public improvement nor increase its value beyond what was originally constructed.~~

~~"Sole source procurement" means a contract for goods or services, or a class of goods or services, available from only one source, as determined by the city~~

~~manager and approved by the city council if the contract is over fifty thousand dollars.~~

~~"Solicitation" means a request by the city for contractors to submit offers. When a written solicitation is required, the request must be in writing.~~

~~"Works of art" means all forms of original creations of visual art, including, but not limited to:~~

~~1. Painting. All media, including both portable and permanently affixed or integrated works such as murals;~~

~~2. Sculpture. In the round, bas-relief, high relief, mobile, fountain, kinetic, electronic, etc., in any material or combination of materials;~~

~~3. Miscellaneous Art. Prints, clay, drawings, stained glass, mosaics, photography, fiber and textiles, wood, metal, plastics and other materials or combination of materials, calligraphy, and mixed media, any combination of forms of media, including collage. (Ord. 13-2 § 1)~~

~~"Personal services contract" means a contract to retain the services of an independent contractor. The contract shall be predominantly for~~**Section 5 - Personal Services (Other than Construction-Related Personal Services).**

A. Definition. "Personal services" means services requiring professional or special training or certification, independent judgment, skill and experience~~.~~, including, but not limited to, attorneys; accountants; auditors; computer programmers; artists; designers; performers; and consultants. The City Council or the City Manager, as the case may be depending on the value of the contract, has discretion to determine whether a particular type of contract or service is a personal services contract. For the purpose of these Rules, personal services do not include Construction-Related Personal Services.

B. Large Procurements. When the estimated payment to the contractor for personal services is above $250,000, the City shall seek competitive sealed proposals in accordance with OAR 137-047-0260.

C. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the personal service contractor is equal to or less than $250,000 and above $25,000. The City Manager will contact a minimum of three (3) prospective contractors qualified to offer the personal services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

D. Small Procurements. The City Manager may enter personal service contracts when the estimated payment is less than $25,000 in any manner the City Manager finds practical or convenient, including direct selection or award. However, the City Manager must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Notwithstanding anything to the contrary in these Rules, the following personal services contracts may be directly appointed.

1. Personal Services Contracts for Continuation of Work. ~~A~~The City Manager may enter into a personal services contract or contract amendment directly with the contractor if the work described in the contract consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier contract with the contractor that was awarded in accordance with ~~this chapter~~these Rules and the new contract is a continuation of that work, provided that such continuation does not reflect an artificial divide or fragmentation of the procurement.

2. Legal Services. Personal services contracts for legal services may be entered into directly by the city ~~attorney, upon approval of the city manager. The city manager shall obtain prior approval from the city council for any contract for legal services where the expected fee will exceed twenty-five thousand dollars~~manager.

Section 6 - Contracts ~~in~~ for Construction-Related Personal Services.

A. Purpose. This Section implements ORS 279C.100 to 279C.125. The City will rely on these Rules, not the Model Rules, for a contract with an architect, engineer, photogrammetrist, land surveyor, as each is defined in ORS 279C.100, and (in very narrow instances) a transportation planner (collectively referred to herein as "Construction-Related Personal Services").

B. Applicability. This Section applies only to a Construction-Related Personal Service contract that meets the following criteria:

1. The estimated payment to the contractor exceeds $100,000; and
2. The contract is for a personal service that is *legally required* to be provided or performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor. For example: hiring an architect to design a building or hiring an engineer to design a wastewater system. Because the law requires licensed professionals to design buildings and infrastructure, the City may rely on this subsection to hire someone to perform those services. However, if the City is hiring an architect or engineer to perform project management

services (for example), it may solicit and award such services under Section 5 of these Rules. *See* definition of "Related Services" below.

3. If either (1) or (2) above is not satisfied (i.e. the contract is for a personal service that is legally required to be provided by a licensed architect, etc. *but* is estimated to not exceed $100,000; *or* the contract will require an engineer, etc. to perform a Related Service) then the City may rely on Section 5 of these rules to solicit and award the contract.

C. Mixed contracts. Some contracts will contain a mixture of services covered by this Section (i.e. services that only the particular consultant may legally perform) and Related Services. Whether the City uses this Section or Section 5 to solicit and award a mixed contract will depend upon the predominate purpose of the contract. The City will determine the predominate purpose based upon either the amount of ~~one hundred thousand dollars or~~ money it estimates it will spend for covered services versus Related Services or the amount of time it estimates that the consultant will spend working on covered services versus Related Services. If covered services predominate, the City will solicit the contract under this Section. If Related Services predominate, the City will solicit the contract under Section 5.

D. Small Procurements. For clarity's sake, the City Manager may enter Construction-Related Personal Service contracts when the estimated value is less ~~for~~ than $100,000 in any manner the City Manager or their designee finds practical or convenient, including direct selection or award. However, the City Manager or designee must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Definitions. The following definitions apply to this Section:

1. "Transportation Planning Services" only includes project-specific transportation planning required for compliance with the National Environmental Policy Act, 42 USC 4321 et seq. and no other types of transportation planning services. By way of example only, Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation plans not associated with an individual Project required to comply with the National Environmental Policy Act, 42 USC 4321 et. seq.

2. "Related Services" means personal services, other than architectural, engineering, ~~land surveying,~~ photogrammetric, mapping, ~~certain~~ transportation planning or land surveying services, ~~and~~that are related ~~services, all as specified in ORS 279C.100, are also considered personal services contracts for purposes of this chapter and may be procured under Section of this chapter~~to planning, designing, engineering or overseeing public improvement projects or components

of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land-use planning services. In other words, personal services that are *not required by law* to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor.

~~2.08.070~~F. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the consultant for Construction-Related Personal Services is equal to or less than $250,000 and above $100,000. The City Manager will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests, to the most qualified consultant. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

G. Large Procurements.

1. When the estimated cost of the contract for Construction-Related Personal Services is greater $250,000, a contract shall be awarded following a qualifications based selection procedure focusing on the consultant's qualifications for the type of professional service required, taking into account the candidate's specialized experience, capabilities and technical competence; resources; record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration; ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability to the project locale; familiarity with the project locale; and proposed project management techniques.
2. Unless the City follows the process set forth in subsection (3) of this subsection, the City may not solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation until after the City has selected a qualified professional for award.
3. Notwithstanding subsection (2) of this subsection, the City may request pricing policies or pricing proposals from prospective consultants, including an estimate of the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates, if the City:

a. States in the following in its solicitation document:

i. That the City will screen and select prospective consultants as provided in ORS 279C.110(5);

ii. How the City will rank proposals from prospective consultants, with a specific focus on:

(1) Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and

(2) The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;

(3) An estimate of the cost of professional services the City requires for the procurement; and

(4) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.

b. Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement;

c. Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (ii) of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (i)(d) of this subsection from each of the top-ranked consultants. The pricing proposal must consist of:

i. A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the City requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

ii. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement.

d. Permits a prospective consultant identified as qualified under paragraph (c) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.

e. Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.

4. If the City and the professional are unable to negotiate a reasonable and fair amount of compensation, as determined solely by the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate and may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the contracting agency terminates the consultant contracting process.

Section 7 - Small Procurements for Goods and Services, and Public Improvements.

A. Public contracts for goods ~~and~~, services~~.~~

, or public improvements with an estimated value under $25,000 may be awarded by the City Manager ~~or designee~~ in any manner deemed convenient, including by direct award. The City Manager shall make a reasonable effort to obtain competitive quotes in order to ensure the best value for the City.

B. Amendments to public contracts under this Section may not cause the contract price to exceed ~~unless the amendment(s) is for the purchase of additional~~thirty-one thousand, two hundred and fifty dollars ($31,250).

C. A procurement may not be artificially divided or fragmented to avoid the requirements of this Section.

Section 8 - Intermediate Procurements for Goods and Services, and Public Improvements.

A. Public contracts for goods or services ~~for which the contract was awarded Public Contracts Valued at More Than Ten Thousand Dollars but One Hundred Fifty Thousand Dollars or Less. A public contract for an amount which is valued at more than ten thousand dollars, but one hundred fifty thousand dollars or less~~with an estimated value between $25,000 and $250,000, or for public improvement services with an estimated value between $25,000 and $100,000, may be awarded by the City Manager ~~based on informal quotes.~~ by contacting a minimum of three (3) prospective contractors qualified to offer the goods or services or public improvement services sought. The City Manager will request an estimated fee, and

make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

B. Amendments to public contracts under this Section may not cause the contract price to ~~exceedIf the contract is valued at fifty~~exceed three hundred and twelve thousand, five hundred dollars ($312,500).

C. A procurement may not be artificially divided or ~~more, the city manager shall notify council~~fragmented to avoid the requirements of ~~the contract award~~~~The~~this Section.

Section 9 - City Public Improvements.

The City may undertake ~~to construct~~ a public improvement using its own equipment and personnel if doing so will result in the least cost to the City or public. ~~For purposes of this section, resurfacing of roads at a depth of two or more inches and at an estimated cost of more than one hundred twenty-five thousand dollars is a public improvement.~~ If the City decides to ~~construct~~undertake a public improvement estimated to cost more than one hundred twenty-five thousand dollars ($125,000) using its own personnel and equipment, the city shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with ORS 279C.~~305Advertising is not required; if the solicitation is not advertised, the city manager must seek quotes from all contractors who have expressed an interest in the city's public contracts~~305.

~~This section applies to public~~**Section 10 - Special Procurements, Sole Source, and Exemptions.**

A. City Council may exempt from competitive bidding certain contracts ~~that~~or classes of contracts for procurement of goods, services, or personal services (other than Construction-Related Personal Services), according to the procedures described in ORS 279B.085. Protest of exemptions must be made in accordance with Section 15.

B. City Council may award a contract for goods, services, or personal services (other than Construction-Related Personal Services) from a single source if the goods, services, or personal services (other than Construction-Related Personal Services) are ~~not~~ available from only one company, or the prospective company has special skills uniquely required for the provision of the goods or the performance of the services or personal services (other than Construction-Related Personal Services). The City must make written findings to demonstrate why the proposed company is the only company who can provide the goods or perform the services or personal services (other than Construction-Related Personal Services) desired, in general compliance with ORS 279B.075.

C. City Council may exempt certain contracts or classes of contracts for public improvements or ~~contracts for personal services. This section applies to contracts~~

for any purchase or lease of goods or services, or emergency work, minor alterations or ordinary repair or maintenance necessaryConstruction-Related Personal Services from competitive bidding according to preservethe procedures described in ORS 279C.335. When exempting a public improvement. A public contract shall not be artificially divided or fragmented to qualify for a different award procedure than that provided by this section.

A. Procurement Methods. The city manager shall procure public contracts for goods and services using the following methods. Nothing in this section prohibits the city manager from conducting a procurement under subsections (A)(1) and (2) using the procedures in subsection (A)(3). This subsection does not apply to the types of contracts listed in subsection C.

1. Public Contracts Valued at Ten Thousand Dollars or Less. A public contract for an amount which is valued at ten thousand dollars or less may be awarded by the city manager in any manner deemed convenient, including by direct award. Amendments to public contracts under this section may not cause the contract price to exceed eleven thousand dollars, unless the amendment(s) is for the purchase of additional goods or services for which the contract was awarded. Advertising is not required; if the solicitation is not advertised, the city manager must seek quotes from or contact all contractors who have expressed an interest in the city's public contracts.

2. Public Contracts Valued at More Than Ten Thousand Dollars but One Hundred Fifty Thousand Dollars or Less. A public contract for an amount which is valued at more than ten thousand dollars, but one hundred fifty thousand dollars or less, may be awarded by from competitive bidding, the city manager based on informal quotes. Amendments to public contracts under this sectionLocal Contract Review Board may not causeauthorize the contract price to exceed an amount that is twenty-five percent over the original contract price. Advertising is not required; if the solicitation is not advertised, the city manager must seek quotes from all contractors who have expressed an interest in the city's public contracts. If the contract is valued at fifty thousand dollars or more, the city manager shall notify council of the contract award.

3. Public Contracts Valued at More Than One Hundred Fifty Thousand Dollars. A public contract for an amount which is valued at more than one hundred fifty thousand dollars shall be awarded by the city council based on competitive sealed bidding or competitive sealed proposals pursuant to the Public Contracting Code (ORS 279B.055 or 279B.060). If the contract is valued at one hundred fifty thousand dollars or more, the city manager must obtain council approval before awarding the contract.

B. Amendments. Subject to the limits in subsection A, amendments to public contracts shall comply with the Public Contracting Code.

D. Responsibility Determination. A responsibility determination in accordance with ORS 279B.110 is required for all public contracts valued at fifty thousand dollars or more or if procured under subsection (A)(3).

E. Notice of Solicitation Documents. Notice of solicitation documents may be published on the city's electronic procurement system, if established by the city manager, in lieu of publication in a newspaper of general circulation.

F. On-Call Contracts. The city manager may establish a pool of contractors who are on-call to provide minor alterations, ordinary repair and maintenance of to be awarded using a Request for Proposal process for public improvements at specified unit prices. The pool and unit pricing must be established using the informal quote, or competitive sealed proposal or bid process, depending on the estimated total value of the contracts to be awarded to qualifying contractors. (Ord. 18-4 § 1; Ord. 13-2 § 1)

2.08.080 Public improvement contracts.

A public improvement contract is defined by the Public Contracting Code as a contract for construction, reconstruction or major renovation on real property by or for the city. It does not include contracts for emergency work on a public improvement, minor alterations, ordinary repair and maintenance of public improvements, contracts for projects for which no funds of the city are directly or indirectly used except for participation that is incidental or related primarily to project design or inspection, and does not include any other construction contract that is not defined as a public improvement contract under the Public Contracting Code. A public improvement contract shall not be artificially divided to qualify for a different award procedure than that provided by this section.

A. Procurement Methods. The city manager shall procure public improvement contracts using the following methods. Nothing in this section prohibits the city manager from conducting a procurement under subsections (A)(1) and (2) using the procedures in subsection (A)(3). This subsection does not apply to the types of contracts listed in subsection C.

1. Public Improvement Contracts Valued at Less Than Ten Thousand Dollars. Public improvement contracts valued at less than ten thousand dollars may be awarded by the city manager in any manner deemed convenient, including by direct award. Advertising is not required. If the solicitation is not

~~advertised, the city manager must seek quotes from or contact all contractors who have expressed an interest in the city's public improvement contracts.~~

~~2. Public Improvement Contracts Valued at Ten Thousand Dollars or More and One Hundred Thousand Dollars or Less. Public improvement contracts valued at ten thousand dollars or more and one hundred thousand dollars or less may be awarded by the city manager based on informal quotes using the procedures in the Model Rules for competitive quotes/intermediate procurements. Advertising is not required for contracts with an estimated value of less than fifty thousand dollars; however, advertising in accordance with ORS 279C.360 is required for those contracts valued at fifty thousand dollars or more. A written solicitation is required for contracts with an estimated value of fifty thousand dollars or more. The city manager must notify council of the contract with an estimated value of fifty thousand dollars or more.~~

~~3. Public Improvement Contracts Valued at More Than One Hundred Thousand Dollars. Except as provided in this section, all public improvement contracts valued at an amount over one hundred thousand dollars shall be awarded by the council based on competitive sealed bids pursuant to ORS Chapter 279C. If the contract is valued at one hundred thousand dollars or more, the city manager must obtain council approval before awarding the contract.~~

~~B. Amendments. Amendments to public improvement contracts shall comply with ORS Chapter 279C.~~

~~C. Exemptions. In addition to the exemptions provided in ORS 279C.335(1)(a) and (f), the following contracts are exempt from competitive bidding:~~

~~1. Emergency Public Improvement Contracts. Emergency public improvement contracts are not defined as public improvement contracts and are procured in accordance with Section (C)(2) if the city manager determines that an emergency exists and that conditions require the prompt execution of a contract. The emergency declaration may state that the contract is exempt from the performance and payment bond requirements pursuant to ORS 279C.380(4). Notwithstanding anything to the contrary in this section, the contract may be modified or changed by amendment to address the conditions described in the declaration of emergency to describe additional work necessary and appropriate related to the emergency circumstances.~~

~~2. Other Exemptions. By resolution, the city council may exempt from competitive bidding a public improvement contract or class of public improvement contracts not otherwise exempt under this section pursuant to ORS 279C.335.~~

When an exemption allows for award of the contract, according to the processes described in OAR 137-049-0640 through competitive proposals, the provisions of ORS 279C.400 to 279C.410 shall apply

D. Responsibility Determination. A responsibility determination pursuant to ORS 279C.375(3) is required for all public improvement contracts valued at fifty thousand dollars or more, or if procured under subsection (A)(3).

E. Bonds. The provisions of this subsection apply to emergency public improvement contracts unless exempted under subsection (C)(1), and to public contracts for minor alterations or ordinary repair or maintenance necessary to preserve a public improvement procured under Section .

1. Offer Security. The purpose of offer security is to guarantee acceptance of the contract award by the contractor to whom a contract is awarded. An offer submitted in response to a solicitation for a public improvement contract valued at fifty thousand dollars or more must include offer security in the amount of five percent of the total offer amount. The security must be in the form of either a surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, or cashier's or certified check. The city manager may require offer security on any public improvement contract valued at less than fifty thousand dollars. Offer security is forfeited if the contractor to whom the contract is awarded fails to execute the contract promptly and properly after the city has awarded the contract, unless the city manager determines forfeiture is not in the city's best interest. Offer security submitted with all unsuccessful offers shall be returned or released after the contract has been executed and evidence of all required insurance and security provided, or after all offers have been rejected.

2. Performance and Payment Security. The purpose of performance security is to guarantee full and faithful performance of the contract. The purpose of payment security is to guarantee the contractor's payment to all labor and material suppliers under the contract. The contractor to whom the contract is awarded shall provide performance and payment security on all public improvement contracts valued at fifty thousand dollars or more. The security must be in the form provided in ORS 279C.380. The city manager may require performance and/or payment security on any public improvement contract valued at less than fifty thousand dollars.

F. Notice of Solicitation Documents. Notice of solicitation documents may be published on the city's electronic procurement system, if established by the city manager, in lieu of publication in a newspaper of general circulation.

~~H. Negotiations. If all responsive offers on a public improvement contract exceed the budget for the project, the city manager may, prior to contract award, negotiate for a price within the budget under the following procedures:~~

~~1. Negotiations shall start with the lowest responsive, responsible offeror. If negotiations are not successful, then the city manager may negotiate with the second lowest responsive, responsible offeror, and so on.~~

~~2. Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.~~

~~3. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation documents.~~

~~4. The records of an offeror used in contract negotiations under this section are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated. (Ord. 18-4 § 1; Ord. 13-2 § 1)Protest of exemptions must be made in accordance with Section .~~137-049-0690. Protest of exemptions approved under this subsection must be made in accordance with Section~~.~~ 15.

D. The City has exempted the following classes of contracts from these public contracting requirements, subject to the following conditions:

1. Purchases of goods or services through federal programs pursuant to ORS 279A.180, in accordance with the following rules.

   ~~i~~a. The procurement must be made in accordance with procedures established by the Federal GSA for procurements by local governments and under purchase orders approved by the city council.

   ~~ii~~b. The price of the goods or services must be less than the price at which the goods or services are available under state or ~~locate~~local cooperative purchasing programs available to the city.

2. Contracts for the purchase or commissioning of works of art.

3. Subject to the terms of these Rules, contracts that are being renewed in accordance with their terms are not considered new contracts. However, for public contracts predominantly for services, one extension not exceeding the original term of the contract or annual renewals is permitted if provided in the contract.

~~The city manager~~**Section 11 - Emergency Contracts.**

A. "Emergency" shall be defined as follows: "Circumstances that (a) could not have reasonably been foreseen; (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and (c) require prompt execution of a contract to remedy the condition."

B. The Mayor or the City Manager shall have authority to determine when emergency conditions exist sufficient to warrant an emergency contract. Such authorized individual shall document the nature of the emergency and describe the method used for the selection of the particular contractor~~. Prior approval of the city manager is required before the city may enter into an emergency procurement with an estimated value of more than [fifty thousand dollars]. prior approval of the city council is required before the city may enter into an emergency procurement with an estimated value of more than one hundred fifty thousand dollars~~.

~~d. The contracting agency, the city manager and the city council collectively, shall not declare the same emergency more than two times in any ninety-day period.~~

~~2.08.090~~C. Emergency contracts may be awarded as follows:

1. Goods and Services, and Personal Services (other than Construction-Related Personal Services). Emergency contracts for procurement of goods and services and personal services may be awarded pursuant to ORS 279B.080.

2. Construction-Related Personal Services. Pursuant to ORS 279C.110(9), the City may directly appoint a Construction-Related Personal Service contract in an emergency

3. Public Improvements. The City hereby adopts OAR 137-049-0150 as its contracting rules for awarding a public improvement contract under emergency conditions.

Section 12 - Brand Name Specifications.

A. Consultation Permitted. The City may consult with technical experts, suppliers, prospective contractors and representative of the industries with which the City will contract. The City shall take reasonable measures to ensure that no person, or no business with which the person is associated, who prepares or assists in the preparation of solicitation documents, specifications, plans or scope of work (collectively, “documents”), realizes a material competitive advantage that arises from the City’s use of those documents.

B. Use of Brand Name or Equal Specification.

1. A “brand name or equal” specification may be used when it is advantageous to the City, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City’s determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean “brand name or equal.”

2. A “brand name” specification may be used requiring a contractor to provide a specific brand when the City Manager makes the following findings:

   a. The use of a brand name specification is unlikely to encourage favoritism in the awarding of a public contract or substantially diminish competition for public contracts; or

   b. The use of a brand name specification would result in a substantial cost savings to the city; or

c. There is only one manufacturer or seller of the product of the quality, performance or functionality required; or

   ~~d~~. Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

~~C. Protest of Brand Name Use. The use of a brand name specification is subject to protest and review only as provided in this section. (Ord. 13-2 § 1)~~

~~2.08.100 Personal services contracts.~~

~~This section applies to personal services contracts as defined in Section . These contracts include, but are not limited to, contracts for auditing, financial, legal, planning, and technical inspection/testing services.~~

~~A. Procurement Methods. The city manager shall procure personal services contracts using the following methods. Except as provided in subsection (A)(1), a personal services contract must be procured by requesting and evaluating offers. Nothing in this section prohibits the city manager from conducting procurement under subsections (A)(1) and (2) using the procedure in subsection (A)(3).~~

~~1. Personal Services Contracts Valued at Ten Thousand Dollars or Less. A personal services contract for an amount which is valued at ten thousand dollars or less may be awarded by the city manager in any manner deemed convenient, including by direct award.~~

~~2. Personal Services Contracts Valued at More Than Ten Thousand Dollars but Less Than One Hundred Thousand Dollars. Personal services contracts involving an anticipated fee of ten thousand dollars or more but less than one hundred thousand dollars per fiscal year shall be awarded by the city manager following solicitation of offers for personal services by written invitation or advertisement in sufficient number to provide a choice for the city from among qualified service providers. The city manager shall include the selection criteria in subsection B and may determine additional selection criteria to be included in the written invitation or advertisement. The city manager shall have authority to negotiate and enter into the contract.~~

~~3. Personal Services Contracts Valued at One Hundred Thousand Dollars or More. Personal services contracts involving an anticipated fee of one hundred thousand dollars or more per fiscal year shall be awarded by the city council following solicitation of offers based on the procedure and selection criteria adopted by the city council before offers are solicited.~~

~~4. Emergencies, Amendments, Extensions and Renewals. For all other personal services contracts, including emergency personal services contracts, amendments to and annual renewals or extensions of existing personal services contracts, the city manager may enter into the contract without a solicitation of offers. A personal services contract shall not be artificially divided or fragmented to qualify for the award procedures provided by this subsection.~~

~~B. Required Selection/Solicitation Criteria. The following criteria shall be considered in the evaluation and selection of a personal services contractor. The criteria are not listed in order of preference or importance. This section does not preclude the use of other additional criteria:~~

~~1. Timeliness of delivery of services.~~

~~2. Expertise of the contractor in the area of specialty called for.~~

~~3. References from successfully completed projects managed by the contractor.~~

~~4. Utilization of locally procured services or personnel.~~

~~5. Other services provided by the contractor not specifically listed in the solicitation.~~

~~6. Total cost to the city for delivery of services.~~

~~7. Other criteria specially listed in the solicitation document on a case-by-case basis. (Ord. 18-4 § 1; Ord. 13-2 § 1)~~

~~2.08.110 Contract preferences.~~

~~A. Discretionary Local Preferences. If the solicitation is in writing~~**Section 13 - Local Preference Allowed in Evaluation of Bids or Proposals**

When possible, the City Manager may provide a specified percentage preference of not more than ten percent for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon~~.~~ in any applicable solicitation documents. When a preference is provided under this ~~subsection~~Section, and more than one offeror qualifies for the preference, the City Manager may give a further preference to a qualifying offeror that resides in or is headquartered in Oregon. The City Manager may establish a preference percentage of ten percent or higher if the City Manager makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence of good cause. The preferences described in this ~~subsection~~Section cannot be applied to a contract for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or other construction contracts.

~~B. Mandatory Tie Breaker Preferences. If offers identical in price, fitness, availability and quality are identical, and the city desires to award the contract, the preferences provided in ORS 279A.120 must be applied prior to contract award.~~

~~C. Mandatory Reciprocal Preferences. Reciprocal preferences must be given when evaluating bids, if applicable under ORS 279A.120.~~

~~D. Mandatory Recycled Preferences. Preferences for recycled goods must be given when comparing goods, if applicable under ORS 279A.125. The city manager shall adopt standards to determine if goods are manufactured from recycled materials. (Ord. 13-2 § 1)~~

~~2.08.120 Offeror disqualification.~~

~~A. Grounds for Disqualification. The council or city manager, whoever is awarding a contract under this chapter, may disqualify any person as an offeror on a contract if:~~

~~1. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;~~

~~2. The person does not have available equipment to perform the contract;~~

~~3. The person does not have key personnel of sufficient experience to perform the contract; or~~

~~4. The person has breached previous contractual obligations.~~

~~B. Public Improvement Contracts Additional Provisions. The provisions of the Public Contracting Code regarding disqualification of persons shall apply in addition to this section with respect to public improvement contracts.~~

~~C. Appeal. A person who has been disqualified as an offeror may appeal the disqualification to the city council in accordance with the procedures in Chapter 279C of the Public Contracting Code. (Ord. 13-2 § 1)~~

~~2.08.130~~Section 14 - Notice of Intent to Award and Protests.

~~For all contracts subject to this chapter and having a value of fifty thousand dollars or more, the city manager shall provide each offeror written notice of intent to award a contract at least seven days prior to award of the contract. This provision is in addition to any requirements to provide a notice of intent to award a contract in the Public Contracting Code. (Ord. 13-2 § 1)~~

~~2.08.140 Protests of exemptions.~~

~~A.~~A. At least seven days prior to the award of a public contract solicited under any invitation to bid or request for proposals, the City will post or provide to each bidder or proposer notice of the City's intent to award a contract. If stated in the solicitation document, the City may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of the City's intent. As an alternative, the City may provide written notice to each bidder or proposer of the City's intent to award a contract. This written notice may be provided electronically or through non-electronic means. The City may give less than seven days' notice of its intent to award a contract if the City determines in writing that seven days is impracticable.

B. This Section does not apply to any contracts or classes of contracts exempted from formal solicitation requirements.

C. A protest of the City's intent to award a contract may only be filed in accordance with OAR 137-047-0740, OAR 137-048-0240, or OAR 137-049-0450, as applicable. Protests to the City's intent to award a personal service contract under subsection A may only be filed in accordance with OAR 137-047-0740.

Section 15 - Protests of Exemptions.

A. Any person may file a protest of the approval of an exemption if they believe the approval was in violation of ~~this chapter or state law~~these Rules or the Public Contracting Code.

B. A protest must meet the following criteria:

1. It must be filed in writing with the City Manager not more than five days after approval.

2. It must state the exemption that is the subject of the protest, the reason why the approval was contrary to ~~this chapter~~these Rules or state law, and the relief sought.

C. The City Council shall review and approve or disapprove of the protest within thirty days after the City Manager receives it. The City Manager shall notify the protester of the City Council's decision within five days after the City Council makes its decision. ~~(Ord. 13-2 § 1)~~

~~2.08.150 Protests of solicitations.~~

~~A prospective offeror on a contract subject to this chapter valued at fifty thousand dollars or more may file a protest of the solicitation if they believe that the procurement process is contrary to law, or that the solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name. If a prospective offeror fails to file the protest within ten days of the closing date, the offeror may not challenge the contract on grounds under this subsection in any future administrative or legal proceeding.~~

~~A. A protest under this subsection must be filed in writing with the city manager and contain the information required by ORS 279B.405(4).~~

~~B. If the protest is timely filed and meets the requirements of subsection A, the city manager shall consider the protest and issue a decision in writing within ten days after receipt. Otherwise, the city manager shall promptly notify the offeror that the protest fails to meet the requirements of this subsection and give the reasons for the failure.~~

~~C. Before seeking judicial review, an offeror must file a protest with the city and exhaust all available administrative remedies. (Ord. 13-2 § 1)~~

~~2.08.160 Protests of contract award.~~

~~A. An offeror may protest the award of a public contract or a notice of intent to award a public contract, whichever occurs first, if:~~

~~1. The offeror is adversely affected because the offeror would be eligible to be awarded the public contract in the event that the protest were successful; and~~

~~2. The reason for the protest is that:~~

~~a. All lower offers or higher ranked offers are nonresponsive,~~

~~b. The city manager has failed to conduct the evaluation of offers in accordance with the criteria or processes described in the solicitation materials,~~

~~c. The city manager has abused its discretion in rejecting the offeror's offer as nonresponsive, or~~

~~d. The city manager's evaluation of offers or the city manager's subsequent determination of award is otherwise in violation of ORS Chapter 279A, 279B, or 279C.~~

~~B. The offeror shall submit the protest to the city manager in writing no more than seven days following the award or issuance of notice of intent to award, whichever occurs first. The protest shall specify the grounds for the protest to be considered by the city manager. Late protests will not be considered.~~

~~C. The city manager shall respond in writing to a protest within ten days after receipt. After the city manager issues the response, the offeror may seek judicial review in the manner provided in ORS 279B.415. When judicial review is sought, the city may not proceed with contract execution unless the city council determines that there is a compelling government interest in proceeding or that the goods and services are urgently needed. If the city council makes such a determination, it shall set forth the reason for the determination in writing and immediately provide them to the protestor. (Ord. 13-2 § 1)~~

~~2.08.170 Disposition of personal property.~~

~~A. The city manager shall have the authority to determine when personal property owned by the city is surplus.~~

~~B.~~ D. Exhausting all protest options at a local level is a condition precedent to filing an associated action on a state level.

Section 16 - Surplus Property.

A. "Surplus Property" is defined as any personal property under the ownership or control of the City that has been determined by the appropriate authority as being of no further, or minimal use or value to the City.

B. The City Manager shall select the method of disposal which maximizes the value the city will realize from disposal of the Surplus Property. Surplus ~~personal~~ Property shall be disposed of as follows:

1. Sold to the highest qualified buyer meeting the sale terms when the value of each item so offered is less than two thousand dollars and the sale has been advertised in at least two public places and on the City's website not less than one week prior to the sale;

2. Traded in on the purchase of replacement equipment or supplies;

3. Sold at public auction advertised at least once in a newspaper of general circulation in the Cannon Beach area not less than one week prior to the auction. The published notice shall specify the time, place and terms upon which the personal property shall be offered and a general description of the personal property to be sold;

4. Sold at a fixed price retail sale if doing so will result in substantially greater net revenue to the City;

5. Contracted for use, operation or maintenance by one or more private or public entities. Prior to approval of such a contract, the City Manager shall determine that the contract will promote the economic development of the City~~;~~.

6. By donation to any organization operating within or providing a service to residents of the City which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

7. Surplus Property that has a value of less than five hundred dollars, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by recycling and third-party public auction and, as the last option, by disposal as waste.

C. All ~~personal~~Surplus Property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind. All bids submitted are irrevocable until the sale is over. For auction of items valued at over ten thousand dollars, the City Manager may require a bid bond.

D. Sales of Surplus ~~personal~~ Property may be conducted electronically.

E. An item (or individual set) of specialized and personal use Surplus Property, other than police officer's handguns, with a current value of less than one hundred dollars may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Manager.

F. Upon honorable retirement from service with the City, a police officer may purchase the handgun that he or she was using at the time of retirement. The purchase price shall be fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the City at least thirty days prior to the expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer, the City shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who will have up to thirty days from the date of retirement to purchase the handgun at the appraised fair market value.

G. City employees are not restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but are not permitted to offer to purchase the property to be sold to the first qualifying bidder until at least three days after notice of the sale is first publicly advertised. ~~(Ord. 13-2 § 1)~~

Section 17 - Electronic Advertising.

A. Pursuant to ORS 279C.360 and ORS 279B.055, electronic advertisement of all public contracts in lieu of newspaper publication is authorized when it is cost-effective to do so. The City Manager shall have the authority to determine when electronic publication is appropriate, and consistent with the City's public contracting policies and these Rules.

B. Notwithstanding the foregoing, any advertisement for a public improvement contract with an estimated cost over $125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

Section 18 - Concession Agreements.

A. A "concession agreement" is a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon land owned by the City, and under which the concessionaire makes payments to the City based, in whole or in part, on the concessionaire's sales revenues. The term "concession agreement" does not include an agreement which is merely a flat-fee or per-foot rental, lease, license, permit, or other arrangement for the use of public property.

B. Concession agreements are not required to be competitively bid. However, when it is in the City's best interests to do so, the City may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.

CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF PROCLAMATION 24-07; NATIONAL PUBLIC WORKS WEEK, MAY 19-25, 2024

Agenda Date: May 7, 2024 **Prepared by:** Karen La Bonte, Public Works Director

BACKGROUND

Since 1960, the American Public Works Association has sponsored National Public Works Week. Across North America, the more than 30,000 members in the U.S. and Canada use this week to energize and educate the public on the importance of public works to their daily lives: planning, building, managing, and operating at the heart of their local communities to improve everyday quality of life. This year's NPWW theme is "Advancing Quality of Life for All".

The City of Cannon Beach would like to acknowledge its Public Works Department for the hard work and dedication given during any hour of any day when needed to support our City.

RECOMMENDATION

Staff recommends that Council adopt the proclamation.

Suggested motion:

"I move to adopt Proclamation 24-07, National Public Works Week".

List of Attachments

A Proclamation 24-07; National Public Works Week, May 19-25, 2024

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF DESIGNATING MAY 19-25, 2024 AS NATIONAL PUBLIC WORKS WEEK - "READY & RESILIENT"	)))	PROCLAMATION NO. 24-07

WHEREAS, Public Works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the citizens of Cannon Beach; and

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees, and who are responsible for rebuilding, improving and protecting our city's streets, water supply, wastewater treatment, parks, beach access and public buildings for our citizens and visitors; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children of Cannon Beach to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their community; and

WHEREAS, the American Public Works Association has celebrated the annual National Public Works Week since 1960.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of Cannon Beach does hereby proclaim May 19-25, 2024, to be

NATIONAL PUBLIC WORKS WEEK
"CONNECTING THE WORLD THROUGH PUBLIC WORKS"

in the City of Cannon Beach. We urge citizens to recognize the substantial contribution our public works team makes to protecting our city's health, safety and quality of life.

PASSED by the Common Council of the City of Cannon Beach this 7th day of May 2024, by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

_____
Barb Knop, Mayor

Attest:

_____
Bruce St. Denis, City Manager

CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF PROCLAMATION 24-08 EMERGENCY MEDICAL SERVICES WEEK, MAY 19-25, 2024

Agenda Date: May 7, 2024 **Prepared by:** Jason Schermerhorn, Police Chief

BACKGROUND

Half a century ago, a presidential proclamation called on the nation to support efforts to improve emergency medical care across the country. It also established the first national EMS Week, a tradition we proudly continue today. Much has changed since 1974, yet there is still much we can learn from those trailblazing clinicians who helped EMS evolve into the sophisticated branch of medicine it is today. Their dedication, commitment and sacrifice inspire us to take bold steps of our own, to continue to seek out ways to better serve our patients and our communities.

This year, we celebrate EMS Week by honoring our past—by taking a pause to recognize the contributions of each generation, the people who dreamed that we could save more lives and have less suffering, and then found ways to make it happen. EMS Week is never just about the past, however. It's also about inspiring the EMS clinicians just starting out and the young people who haven't even discovered EMS yet. It's about learning from the challenges and building on the successes of the last five decades. It's about forging our future—a future in which the next generation has the tools they need to deliver compassionate care and alleviate suffering in communities everywhere.

Representatives from Emergency Medical Services are asking that cities across the country, including the City of Cannon Beach, adopt a proclamation to designate the week of May 19-25, 2024, as "Emergency Medical Services Week".

RECOMMENDATION

Staff recommends that the Council adopt the proclamation.

Suggested motion:

"I move to adopt Proclamation 24-08, Emergency Medical Services Week".

List of Attachments

A Proclamation 24-08; Emergency Medical Services Week May 19-25, 2024

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF DESIGNATING THE WEEK OF MAY 19-25, 2024 AS EMERGENCY MEDICAL SERVICES WEEK	PROCLAMATION NO. 24-08

WHEREAS, emergency medical services is a vital public service; and

WHEREAS, the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and

WHEREAS, the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and

WHEREAS, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating emergency medical services week; now

NOW THEREFORE, the Common Council of the City of Cannon Beach, in recognition of this event do hereby proclaim the week of May 19-25, 2024, as

EMERGENCY MEDICAL SERVICES WEEK

PASSED by the Common Council of the City of Cannon Beach this 7th day of May 2024, by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

_____
Barb Knop, Mayor

Attest:

_____
Bruce St. Denis, City Manager

CANNON BEACH CITY COUNCIL

STAFF REPORT

CONSIDERATION OF PROCLAMATION 24-09 PROCLAIMING JUNE 2024 AS SANDCASTLE MONTH

Agenda Date: May 7, 2024 **Prepared by:** Jason Schermerhorn, Police Chief

BACKGROUND

The Cannon Beach Sandcastle Contest began in 1964 when a tsunami washed out the Elk Creek Bridge, and residents were relatively isolated until a new bridge could be built. That spring, local families gathered for a Sandcastle Contest to entertain their children and attract visitors. That Sandcastle Contest became one of the largest sandcastle contests on the West Coast.

This year the contest will celebrate its 60th year on June 15. In honor of the 60th anniversary, the Cannon Beach Chamber of Commerce requested a Proclamation declaring June 2024 as Sandcastle month.

RECOMMENDATION

Staff recommends that the Council adopt the proclamation.

Suggested motion:

"I move to adopt Proclamation 24-09, Proclaiming June 2024 as Sandcastle Month".

List of Attachments

A Proclamation 24-09; Proclaiming June 2024 as Sandcastle Month

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF PROCLAIMING JUNE 2024 AS SANDCASTLE MONTH) PROCLAMATION NO. 24-09

WHEREAS, Cannon Beach Sandcastle Contest is an annual festival where locals and visitors craft elaborate sand sculptures to be enjoyed by all beachgoers. The day itself is a family outing. The Contest has different divisions and prizes, drawing in participation from families into the art community at a young age; and

WHEREAS, the Contest was founded in 1964, the same year that a tsunami from an Alaskan 9.2 magnitude earthquake hit the Oregon coast. The 30 foot tsunami washed away the bridge over Ecola Creek and uprooted homes. The Cannon Beach Sandcastle Contest was started in an effort to revitalize the town and uplift resident's spirits; and

WHEREAS, the Cannon Beach Sandcastle Contest was submitted by Senator Gordon Smith in the Local Legacies Project. It is among only 27 entries from the state of Oregon, along with Portland Rose Festival. Inclusion in this project and the awarding of the Oregon Heritage Excellence Award in 2014, enforces how much this Contest is a part of Cannon Beach's and Oregon's culture and legacy; and

WHEREAS, the Cannon Beach Chamber of Commerce and Information Center, other local nonprofits, generations of families, shops, and hotels benefit from this tradition; and

WHEREAS, the 60th anniversary of the Contest is also commemorated by The Cannon Beach History Center and Museum with an exhibit showcasing the legacy of this event; and

WHEREAS, those who come to participate and enjoy this part of Cannon Beach culture and history number in the thousands. In respect to locals and visitors of this historic contest, and in acknowledgement of the 60th anniversary of this symbol of the community's resilience in the face of hardship; and

THEREFORE, BE IT RESOLVED, that the City of Cannon Beach proclaims June 2024 as Sandcastle Month, honoring the legacy of Cannon Beach and its community.

FURTHER, that the future generations of participants and their families will remember the 60th anniversary as a revitalization after crisis, just as it was at the founding.

PASSED by the Common Council of the City of Cannon Beach this 7th day of May 2024, by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

Barb Knop, Mayor

Attest:

Bruce St. Denis, City Manager

CANNON BEACH CITY COUNCIL

STAFF REPORT

CITY OF CANNON BEACH, REQUEST FOR A FOR A TEXT AMENDMENT TO MUNICIPAL CODE CHAPTER 17, ZONING. THE REQUEST IS FOR ZONING ORDINANCE TEXT AMENDMENTS TO CHAPTER 17.43 WETLAND OVERLAY ZONE. THE REQUEST WILL BE REVIEWED AGAINST THE CRITEIRA OF MUNICIPAL CODE 17.86.070 AMENDMENTS AND THE STATEWIDE PLANNING GOALS. ZO 23-02

Agenda Date: May 7, 2024 **Prepared by:** Steve Sokolowski
Community Development Director

BACKGROUND

The initial evidentiary public hearing on the above-entitled matter was opened before the Planning Commission on October 26, 2023, and the matter was continued. The application was further discussed at the February 22, 2024, Plan Commission meeting and after deliberating the Plan Commission decided to hold the matter until some additional amendments were completed. The application was further discussed at the March 7, 2024, Planning Commission meeting and after deliberating the Plan Commission decided to hold the matter until some additional amendments were completed. The application was again discussed at the March 12, 2024, Planning Commission meeting. At that meeting the Plan Commission closed the public hearing, deliberated, and recommended to the City Council that the text amendment to the zoning ordinance be approved.

The City of Cannon Beach City Council is now holding a hearing to consider adoption of the proposed zoning ordinance text amendments to chapter 17.43 wetland overlay zone. The purpose of this amendment is to further protect wetlands in the City of Cannon Beach.

During this hearing, and possible future hearings on the matter, the Council will hear evidence regarding the proposal, conduct deliberations, and make a decision to approve or deny the proposed text amendment to chapter 17.43 wetlands overlay zone. This is an opportunity for everyone who has an interest in the wetlands to have their voices heard.

The Urbsworks team will provide an overview of the proposal. Then the Council will accept testimony during the hearing. The Council will deliberate and then decide what action will be taken such as continuing the hearing or making a formal decision to approve or deny the proposed zoning ordinance amendment.

The proposal would change the way in which the city regulates and protects trees. The wetlands overlay zone amendment proposes to:

1) Reorganize the WO chapter;
2) Provides amended requirements and approval standards;
3) Clarifies application submittal requirements and review procedures;
4) Includes updated maps; and
5) Will replace the existing Chapter 17.43 in its entirety.

APPLICABLE CRITERIA AND FINDINGS

17.86.070 Criteria

A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:

1. *The amendment is consistent with the comprehensive plan;*

2. *The amendment will not adversely affect the ability of the city to satisfy land and water use needs.*

Staff Comment: The proposed amendments are consistent with the City of Cannon Beach Comprehensive Plan and will not adversely affect the ability of the city to satisfy land and water use needs based on the following:

- To ensure that development is designed to preserve significant site features such as trees, streams and wetlands.

- To support public education programs that promote the preservation and enhancement of streams, wetlands and associated riparian areas through landowner and land user stewardship.

- To protect, enhance and restore the functions and values of freshwater habitats necessary to support viable fish populations, particularly those of coastal coho salmon, in Ecola Creek and associated tributaries.

- To protect, enhance and restore the functions and values of riparian corridors, which include water quality protection, storm and flood water conveyance, fish and wildlife habitat, and open space.

- The city will provide flexibility in regulations governing site design so that developments can be adapted to specific site conditions.

- Filling of wetlands or natural drainages shall be prohibited unless it is adequately demonstrated that it will not affect adjacent property, and the wetlands area is not, in the view of State or Federal resource agencies, valuable biologically.

- Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies.

- The purpose of the Cannon Beach Comprehensive Plan is to control and promote development which is most desirable to the majority of the residents and property owners of the City.

- Citizen Involvement Policy 1. States “Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies.” Adequate notice and opportunity to comment have and will

continue to be given to the public. In addition, providing a reorganized Wetland Overlay Zone that is easier to read and understand will support this plan policy.

Consistency with the Statewide Planning Goals

Goal 1 - Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

Staff comment: The ordinance amendments were created with citizen involvement beginning with the code audit project in 2021. This involved the Planning Commission, Design Review Board, City Council, city staff, and the public. Following the recommendation to reorganize the existing code, the city has conducted public work sessions and hearings to consider and ultimately adopt the wetlands section of the ordinance. In addition to this public involvement, future citizen involvement will benefit from having a unified ordinance related to land development in the city.

Adequate notice and opportunity to comment have and will continue to be given to the public. The amendments to the wetland overlay zone will be more user-friendly and easier for practitioners and citizens to understand compared to the existing ordinance. This goal is satisfied.

Goal 2 - Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Staff comment: The proposed amendments feature several improvements in organization and clarification of requirements. The revisions are also intended to provide greater wetland protection while continuing to allow for reasonable development on properties that contain wetlands and wetland buffer areas. The reorganized wetlands overlay zone will be easier to navigate and use. This in turn will support the land use planning process and outcomes. This goal is satisfied.

RECOMMENDATION

The Plan Commission reccomends that the City Council find the proposed text amendment consistent with applicable comprehensive plan policies, criteria in the City's zoning ordinance, and statewide planning goads and recommend approval of the proposed zoning ordiance amendment (ZO 24-01).

Motion

Based on a motion by Councilor (NAME), seconded by Councilor (NAME), the Cannon Beach City Council moves to (approve/deny) the proposed zoning ordiance amendment to Municipal Code Chapter 17.43 Wetland Overlay Zone (ZO 23-02).

LIST OF ATTACHMENTS

A. Proposed Wetlands Overlay Ordinance
B. Plan Commission Memo regarding ZO 23-02
C. Draft Ordinance
D. Draft Orders

CHAPTER 17.43 WETLANDS OVERLAY (WO) ZONE

3.9.24

17.43.010 Purpose

The purpose of the wetlands overlay zone is to protect wetland areas identified in the city's Local Wetland Inventory from uses and activities that are inconsistent with the maintenance of the wetland functions and values identified for those sites, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; carbon sequestration; thermal refugia, and improving water quality through biofiltration, adsorption, retention, and transformation of sediments, nutrients, and toxicants. Wetland areas also serve significant community wellness purposes such as mental and emotional well-being and sense of community in nature. (Ord. 94-29 § 2). In addition to wetland protections covered by this chapter, the city also protects stream corridors (Chapter 17.71) and estuarine resources per the Ecola Creek Estuary Plan.

In addition to protecting the wetland values described above, this chapter seeks to provide for reasonable development and use of properties that are within the Wetlands Overlay Zone.

17.43.015 Definitions

"Best management practices" means structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to protected wetlands.

"Building coverage" means the portion of the lot area that is covered by buildings. The area of the buildings shall be measured at their exterior perimeter. Buildings include dwellings, accessory structures, garages, and carports.

"Buffer averaging" means reducing the standard buffer width (i.e., 50 feet) around a wetland in some locations and increasing it in other locations such that the total area within the buffer around a given delineated wetland after averaging remains at least equal to what was required by the standard buffer around that wetland.

"Contiguous" means lots that have a common boundary and common ownership including lots separated by public streets.

"Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice, or gravity.

"Invasive species: means non-native and noxious plants as identified by the Oregon Department of Agriculture.

"Lot coverage" as currently defined in 17.040.335.

"Permeable" means surfaces that allow water to pass through whereas "impermeable" means blocking the flow of water through the surface.

"Point source stormwater discharge" means water from precipitation, surface or subterranean water from any source, drainage and nonseptic wastewater that flows from any discernible, confined, discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, or vessel.

A "qualified wetland professional" is a person with experience and training in wetlands issues and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

A Professional Wetland Scientist certification from the Society of Wetland Scientists Professional Certification Program; or

B.S. or B.A., or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field; two years of related work experience; and minimum of one-year experience delineating wetlands using the 1987 U.S. Army Corps of Engineers (Corps) Wetlands Delineation Manual, the Western Mountain, Valleys and Coast regional Supplement and supporting guidance; and preparing wetland reports permits, and mitigation plans; or

Four years of related work experience and training; minimum of two years' experience delineating wetlands using the 1987 Corps Manual, the Western Mountain, Valleys and Coast regional Supplement and supporting guidance; and preparing wetland reports, permits, and mitigation plans.

"Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

"Sediment" means settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its previous location.

"Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

"Upland" as used in this title is the portion of a wetland lot-of-record that is neither protected wetland or wetland buffer area.

"Utilities, underground or above ground" refers to City provided utilities as defined in Chapter 13.03.010 as well as private utilities such as but not limited to natural gas, electric, cable, and telecommunications infrastructure. Such utilities may occur below ground surface, at ground surface, or supported above ground surface.

"Vegetation" as used in this title shall include all living plant matter (e.g., all native and non-native vines, herbaceous, shrub, and tree species of any size or amount).

“Wetland buffer area” means a 50-foot-wide non-wetland area surrounding the delineated boundary of a protected wetland within the Wetlands Overlay (WO) zone. (Ord. 94-29 § 1)

“Wetland creation” means to convert an upland or a wetland buffer that has never been a wetland to a wetland. The assumption that a creation site has never been a wetland is based on soils mapping, the interpretation of historical aerial photographs, and any other available information.

“Wetland, degraded” as defined by the Oregon Department of State Lands means a wetlands with diminished functions and values. Degradation must include hydrologic manipulation (such as diking, draining, or filling) that demonstrably interferes with the normal functioning of wetland processes.

“Wetland delineation” means a determination of the presence of wetlands and other waters that includes marking boundaries on the ground and on a detailed map prepared by professional land survey or similar accurate methods. The delineation is to be undertaken in accordance with a method acceptable to the US Army Corps of Engineers and the Oregon Department of State Lands. (Ord. 9429 § 1)

“Wetland delineation map” means a map included in a wetland delineation report or provided with a Jurisdictional Determination by the Oregon Department of State Lands that shows the tax lot(s) and study area(s) investigated and the location, size, and boundaries of all wetlands and other waters.

“Wetland determination” means a decision that a site may, does, is unlikely to, or does not contain waters of the state of Oregon. A determination does not include the exact location or boundaries of water of the state of Oregon.

“Wetland enhancement" means to improve the condition and increase the functions and values of an existing degraded wetland.

“Wetland functions and values” means those ecological characteristics or processes associated with wetlands, and the societal benefits derived from those characteristics. The ecological characteristics are “functions,” whereas the associated societal benefits are “values.” The Oregon Department of State Lands has approved methods to measure these functions and values in Oregon Administrative Rule 141-085.

“Wetland lot-of-record” is a lot or contiguous lots held in common ownership on August 4, 1993, which are subject to the provisions of this chapter. A wetland lot-of-record includes upland portions of the contiguous property that are not subject to the provisions of the Wetlands Overlay zone.

“Wetland mitigation, compensatory” means the creation, restoration, or enhancement of a wetland area to maintain the functional characteristics and processes of the wetland system, such as its natural biological productivity, habitats, aesthetic qualities, species diversity, open space, unique features, and water quality.

“Wetland Overlay Zone” includes protected wetlands and wetland buffer areas that are subject to the provisions of this chapter.

"Wetland, protected" is an area in the Wetlands Overlay zone that has been identified on the Cannon Beach Local Wetlands Inventory (LWI) or on a subsequent wetland delineation as significant wetlands. They are areas inundated or saturated by surface or groundwater 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. Note that federal and state protections also exist, and the applicant is also responsible for addressing such regulations. Should discrepancies exist between federal and state wetland delineation jurisdiction, city-protected wetlands shall match state regulated wetland boundaries.

"Wetland restoration" means to reestablish a former wetland.

17.43.020 Mapping

A. The maps identifying the Wetland Overlay (WO) zone boundaries shall be maintained and updated as necessary by the city. The Cannon Beach Local Wetlands Inventory (LWI) maps dated September 20, 1994, as well as subsequent updates to the LWI, shall form the basis for the location of wetlands. The original 1994 LWI is based upon wetland determinations, and subsequent updates will generally be wetland delineations. The WO zone includes both protected wetlands and wetland buffer areas.

B. Site-specific wetland delineations are required to determine the exact location of the WO zone boundary prior to development proposed within a protected wetland or wetland buffer identified in the Cannon Beach LWI. For properties that only include wetland buffer areas, the applicant may choose to rely upon the buffer area shown in the Cannon Beach LWI maps or provide a wetland delineation to establish the wetland buffer boundary when permission to access the off-site wetland boundary is received from the off-site property owner. If permission to access is denied or not attainable, then the applicant may conduct a wetland determination to estimate and map the location of the off-site wetland boundaries and on-site wetland buffers. These wetland determinations are to be based on review of off-site vegetation conditions, topography, soil mapping, aerial photographs, and any other available information without physically accessing the off-site property.

C. When a report or opinion from a qualified wetland professional is submitted by an applicant, the approval authority may seek an independent expert opinion when reviewing the report or opinion or rely on the Oregon Department of State Lands approval of a wetland determination or delineation report. A qualified wetland professional retained or hired by the city under this subsection is expected to render independent expert opinion, consistent with the Society of Wetland Scientists Code of Ethics.

D. Where a wetland delineation report is approved by DSL, it shall be accepted by the City, and the mapping it contains shall replace that of the Cannon Beach LWI. A map refinement based on a delineation shall remain valid for the purpose of locating the WO zone boundary unless a subsequent delineation of the wetland boundary is approved by DSL. Any wetland delineation submitted to the City shall be accompanied by an electronic shapefile.

E. Portions of protected wetlands that are legally filled under this chapter are no longer wetlands but shall change to wetland buffer areas under this overlay zone. Wetland buffer areas that are legally impacted under this chapter remain as wetland buffer areas. (Ord. 08-1 § 40; Ord. 94-29 § 2). When

the wetland boundary from a delineation or determination is updated as described in this section, the corresponding wetland buffer shall be determined based upon the updated wetland boundary.

17.43.030 Applicability

The regulations of this chapter apply to the portions of all properties that contain protected wetlands or wetland buffer areas as shown on the city LWI maps or as described in a wetland delineation or determination as provided in Section 17.43.020.

17.43.040 Administration

A. Activities permitted outright according to Table 17.43-1 shall be reviewed as a Type 2 Administrative review as provided in Section 17.92.010 C. 2.

B. All other development or activities within the Wetlands Overlay Zone shall be reviewed according to Table 17.43-1 as a Planning Commission decision as provided in Chapter 17.88.

Table 17.43-1 Review Procedure for Development and Activities within the WO Zone

Development or Activity	Review Process
Vegetation management only to the extent necessary for hazard prevention	Type 2 Administrative review
Wetland Lot-of-Record Development	Planning Commission review
Streets	
Sidewalks, Pathways, and Trails	
Utilities	
Land Divisions and Lot Line Adjustments	
Stormwater Management	
Wetland Mitigation and Wetland Enhancement	
Vegetation Management for removal of non-native vegetation and replacement with native vegetation of similar structure	

17.43.050 Development and Activities Permitted

A. Uses and activities listed in Table 17.43-1 may be permitted in protected wetlands and wetland buffer areas, when it is determined that development and use of property, as provided in Section 17.43.070, is not possible without locating a portion or all of the development within wetland buffer or wetland areas. When a development permit is approved, it shall comply with the provisions of this title and the applicable standards in Section 17.43.070.

B. Uses and activities that may be permitted in protected wetland and wetland buffers are shown in Table 17.43-1. When another provision of the Cannon Beach Municipal Code conflicts with this

chapter or when the provisions of this chapter are in conflict, that provision which provides greater environmental protection to wetlands and/or wetland buffer areas shall apply, unless specifically provided otherwise in this chapter or such provision conflicts with federal or state laws or regulations.

C. Uses and activities in existence approved by the approval authority before the effective date this Chapter 17.43, [to be specified on the date of ratification] (hereinafter referred to for purposes of this Chapter as the Effective Date), and which do not conform with the development standards for permitted uses set forth herein may qualify as a "nonconforming use" as provided Chapter 17.82.

17.43.060 Application Submittal Requirements

A. Information Requirements. Information provided on the development plan shall conform to the following:

1. Drawings, along with an electronic copy, depicting the proposal shall be presented on sheets not larger than 24 inches by 36 inches in the number of copies directed by the city;

2. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned.

B. Site Analysis Diagram. This element of the development plan, drawn to scale, shall indicate the following site characteristics:

1. A survey of the property by a licensed land surveyor clearly delineating the current property boundaries;

2. Location of the wetland boundary and wetland buffer area;

3. Location and species of trees greater than 6 inches in diameter at breast height (DBH), and an indication of which trees are to be removed or potentially affected by construction activity including trees on abutting properties;

4. On sites that contain steep slopes, potential geologic hazard or unique natural features that may affect the proposed development, the city may require contours mapped at 2-foot intervals;

5. Natural drainageways and other significant natural features;

6. All buildings, roads, retaining walls, curb cuts, and other manmade features on the subject property;

7. Developed and natural features, including trees, wetlands, structures, and impervious surfaces on adjoining property having a visual or other significant relationship with the site; and

8. The location and names of all existing streets within or on the boundary of the proposed development.

C. Site Photographs. Photographs depicting the site and its relationship to adjoining sites and natural features shall also be provided.

D. Site Development Plan. This element of the development plan shall indicate the following:

1. Boundary dimensions and area of the site.

2. Location of all existing structures, driveways, walkways, and landscaped areas proposed to be retained, including their site coverage and distances from the property line, and wetland and wetland buffer area boundaries;

3. Location of all new structures, driveways, walkways, and landscaped areas proposed to be retained, including their site coverage and distances from the property line, and wetland and wetland buffer area boundaries;

4. All external dimensions of existing and proposed buildings and structures;

5. Existing and proposed parking and vehicular and pedestrian circulation areas, including their dimensions;

6. Existing and proposed service areas for such uses as the loading and delivery of goods;

7. Locations, descriptions and dimensions of easements;

8. Grading and drainage plans, including spot elevations and contours;

9. Location of areas to be landscaped or retained in their natural state;

10. Exterior lighting including the type, intensity, height above grade and area to be illuminated; and

11. Other site elements which will assist in the evaluation of the application.

E. Site Alternatives Analysis. A site alternative analysis shall be provided. The purpose of the site alternative analysis is to evaluate development options that would avoid any encroachment into the protected wetland or wetland buffer on the property in a manner that can demonstrate compliance with the relevant approval criteria in Section 17.43.070. When encroachment appears necessary, the site alternatives analysis shall be structured using the following sequential steps when it is determined that 1,000 square-foot building coverage and 400 square feet of additional lot coverage for access and parking are not available on the upland portion of the property:

1. Step 1 Setback Reduction. Determine whether the proposed development could be located exclusively on the upland portion of the property if adjustments in Section 17.43.070 C. 1. are used.

2. Step 2 Setback Reduction and Wetland Buffer Averaging. When the proposed development cannot be located exclusively on the upland portion of the property as provided in Step 1 above, the applicant shall determine if a maximum 25 percent (12.5 feet) encroachment into the

wetland buffer would accommodate the proposed development. The analysis shall provide an area calculation for the encroachment into the wetland buffer. The analysis shall indicate where the wetland buffer will be expanded by an equivalent area to compensate for the wetland encroachment. When sufficient upland area is not available on the subject property to provide the required buffer averaging, a mitigation plan shall be developed for an area equivalent to the deficiency as provided in Section 17.43.060 H.

3. Step 3 Setback Reduction and Wetland Buffer Reduction and Mitigation. When the proposed development cannot be located exclusively on the upland portion of the property and with wetland buffer averaging as provided in Step 2 above, the applicant shall determine if further reduction of the wetland buffer, excluding wetland encroachment, would accommodate the proposed development. The analysis shall provide the wetland buffer encroachment area calculation and compensation as provided in Step 2 above. A mitigation plan shall be developed as provided in Section 17.43.060 H.

4. Step 4 Setback Reduction, Wetland Buffer and Wetland Encroachment and Mitigation. When the proposed development cannot be located exclusively on the upland portion of the property and with wetland buffer encroachment as provided in Step 3 above, the applicant shall determine if encroachment into the wetland buffer and the wetland would accommodate the proposed development. To the extent upland area is available on the property, the analysis shall indicate where the wetland buffer will be expanded by an equivalent area to compensate for the wetland encroachment. A mitigation plan shall be developed as provided in Section 17.43.060 H.

5. For any type of protected wetland or wetland buffer encroachment, the applicant shall provide an explanation of the alternatives considered and the reasons why the site development plan is proposed to use portions of a wetland or buffer area.

F. Landscape Plan. Applications that propose development within a protected wetland or wetland buffer shall include the following:

1. The size, species, and locations of plant materials to be retained or placed on the site, including eradication and replacement of invasive plant species;

2. The layout of proposed irrigation facilities;

3. The location and design details of walkways, decks, courtyards, patios, and similar areas;

4. The location, type and intensity of lighting proposed to illuminate outdoor areas; and

5. The location and design details of proposed fencing, retaining walls, and screening for service areas.

G. Stormwater management plan.

1. A stormwater management plan shall be required of the applicant and reviewed and approved by the public works director for the following types of developments where stormwater will move from the site into protected wetlands:

    a. New building covering more than 200 square feet; or

    b. New addition covering more than 200 square feet; or

    c. New road or driveway; or

    d. Road or driveway expansion; or

    e. New parking lot or parking lot expansion; or

    f. Point source stormwater discharge; or

    g. Diversion of stormwater for any reason within the wetland or wetland buffer.

2. A stormwater management plan must include all information necessary to demonstrate to the public works director that the proposed stormwater management system will maintain pre-construction activity, or background, water quality and similar flow characteristics (e.g., volume, velocity, and duration) and be consistent with Public Works Department standards and the requirements of this Chapter. The stormwater management plan shall provide the following in addition to any information requested by the public works director:

    a. Site map or maps, drawing or specifications detailing the design, route, and location of the stormwater management system.

    b. A map or model of drainage patterns and stormwater flow before and after the development or activity; impacts to water quality in the wetland, changes to water quantity and timing that may adversely affect wetland function (e.g., effects of rapidly fluctuating water levels on amphibian egg masses, scour impacts to vegetation) and potential for sediment deposition into the protected wetland or wetland buffer.

    c. Best management practices and methods of treatment that will maintain or improve background levels of water quality, which includes but is not limited to: dissolved oxygen levels; pH; temperature; total dissolved solids; and contaminants.

H. When development is proposed within a protected wetland or wetland buffer as provided in Section 17.43.060 E. 3. or 4., a mitigation plan shall be provided including the following information prepared by a qualified wetland professional In cases where a Department of State Lands and/or US Army Corps of Engineers permit is required, the mitigation plan approved by either agency shall satisfy this requirement

    1. Plan Overview including a summary narrative.

    2. Proposed impact details:

a. Description of existing site conditions within the wetland and the wetland buffer including, but not limited to, hydrologic characteristics, plant communities, and/or ecological conditions.

b. Square footage of the proposed encroachment into the wetland buffer and/or wetland.

c. Demonstration of compliance with the applicable provisions in Section 17.43.070 J.

3. Proposed mitigation details:

a. On-site mitigation shall first be considered.

b. If on-site mitigation is not feasible, off-site mitigation may be proposed with the following supporting information:

i. Tax lot and ownership of proposed mitigation site.

ii. Justification for why on-site mitigation was not practicable and why the off-site location is appropriate.

c. An on-site or off-site mitigation plan shall include the following information:

i. Existing conditions site plan for the mitigation site, showing protected wetlands, buffers, and plant communities and/or ecological conditions.

ii Site plan showing proposed restoration or enhancement activities within the wetlands and/or buffer including but not limited to grading, hydrologic improvements, invasive plant removal, native plantings, and habitat structures.

Iii An explanation of the rationale for the mitigation area location, including any expansion of the wetland and/or buffer area.

iv. Planting plan describing location, species, size, and quantities of plants to be provided.

d. A monitoring plan shall be provided, to include the following:

i. Monitoring schedule including a minimum of once per year during the required 5-year monitoring period.

ii. Methods to ensure success and plant replacement as needed.

iii. Proposed photo point locations to be used during the monitoring period.

I. Narrative addressing the relevant standards in Section 17.43.070.

17.43.070 Development Standards

The following standards are applicable to the uses and activities listed in Section 17.43.050. The following standards are applicable in all areas under the Wetlands Overlay zone.

A. General Standards. Uses and activities in protected wetlands and in wetland buffer areas are subject to the following general standards:

1. The proposed uses and development comply with the applicable requirements in this title unless modified as provided in this chapter.

2. Uses and activities in wetlands or wetland buffer areas may be approved only after the following list of alternative actions, listed from highest to lowest priority, have been considered:

    a. Avoiding the wetland and wetland buffer areas entirely and locating uses and activities on upland portions of the property.

    b. When development within a wetland and/or wetland buffer is proposed, the applicant shall demonstrate how the affected land area is minimized by utilizing design options to reduce building coverage, such as multistory construction, reducing impervious surface area, grading, and similar actions to the extent possible while properly accommodating the proposed use or activity.

    c. Where a use or activity must be located in either the wetland or the wetland buffer, preference shall be given to the location of the use or activity in the wetland buffer.

3. Valid permits from the US Army Corps of Engineers and from the Oregon Department of State Lands, or written proof of exemption from these permit programs, must be obtained before any of the following activities occur in wetlands:

    a. Placement of any amount of fill;

    b. Construction of any pile-support structure;

    c. Excavation (any amount);

    d. Compensatory mitigation;

    e. Wetland restoration; and

    f. Wetland enhancement.

4. Where a protected wetland is identified by the Cannon Beach LWI as riverine, uses and activities are also subject to the requirements of Chapter 17.71, stream corridor protection. If the riverine mapping only encompasses the active channel (i.e., no wetlands are present), then only Chapter 17.71 applies.

5. Where wetlands occur below the Ordinary High Water Line (or Mark) of the stream, the buffer shall be determined according to the requirements of Chapter 17.71, stream corridor protection.

B. **Wetland Lot-of-Record.**

1. The upland portions of a wetland lot-of-record may be developed as provided in this title. Development is not permitted in protected wetlands or buffer areas. When upland area is limited or non-existent, a wetland lot-of-record shall be allowed by right to have a maximum building coverage of 1,000 square feet and an additional maximum of 400 square feet of lot coverage, for a total lot coverage of 1,400 square feet, as provided in Section 17.43.070 C.

2. The uses and development subject to the use provisions in Section B. 1. above include:

   a. Non-residential structures include commercial, institutional, and other public buildings with a maximum building coverage of 1,000 square feet.

   b. On-site improvements include driveways, walkways, decks, patios, and parking on the property being developed with a maximum lot coverage of 400 square feet.

3. When it is demonstrated that use of a wetland lot-of-record is not possible on the upland portion of the property and a hardship would result, the proposed development shall be reviewed in accordance with Section 17.43.070 C.

C. Approval Criteria for Development Subject to Wetland Lot-of-Record Requirements. To allow use of a wetland lot-of-record where sufficient upland area is not available to accommodate up to 1,000 square feet of building coverage and 400 square feet of lot coverage, the applicant shall be entitled to obtain approval for this amount of development by one or more of the four following options, which are presented in order of priority. For all options, upland area shall be utilized to the maximum extent deemed appropriate by the Planning Commission to minimize the amount of protected wetland or wetland buffer encroachment.

1. Adjustment. An adjustment to the applicable dimensional standards to accommodate all or a portion of the proposed development on available upland portions of the property shall be considered. The Planning Commission may approve an application for up to a 50 percent adjustment to the following development and dimensional standards to accommodate development outside of wetland and wetland buffer areas:

   a. Building setback requirements of the applicable base zone; and

   b. Lot dimension requirements of the applicable base zone.

2. Wetland Buffer Averaging. Where the upland portion of the lot-of-record cannot accommodate 1,000 square feet of building coverage and 400 square feet of other lot coverage, with an adjustment to the building setback and/or the lot dimension requirements, then minor wetland buffer encroachment shall next be considered to allow use of a parcel when all the following are met:

a. The site alternative analysis prepared by the applicant demonstrates there are no feasible alternatives to the site design to accommodate 1,000 square feet of building coverage and 400 square feet of other lot coverage without utilizing a portion of the wetland buffer; and

b. The proposed development or activity is designed to utilize the 50 percent adjustment to the dimensional standards listed in 17.43.070 C. 1. to develop within the available upland to the maximum extent practicable; and

c. The reduced buffer width will not result in degradation of the wetland's functions and values as demonstrated by an assessment from a qualified wetland professional; and

d. The lot coverage within the wetland buffer does not exceed 1,000 square feet for the building and 400 square feet for other lot coverage.

e. The buffer at its narrowest point is never less than 75 percent of the required width or 37.5 feet.

f. The wetland buffer area shall be expanded by an equivalent amount to the encroachment into the buffer. If sufficient upland area is not available on the subject property, the application shall satisfy the requirements of Section 17.43.070 C. 3.

g. Compliance with the applicable requirements in Sections 17.43.070 E. through M.

3. Wetland Buffer Reduction and Mitigation. Where the upland portion of the lot-of-record cannot accommodate 1,000 square feet of building coverage and/or 400 square feet of lot coverage, and a wetland buffer encroachment greater than 25 percent is necessary, the wetland buffer width may be reduced by the approval authority when all the following criteria are met:

a. The site alternative analysis prepared by the applicant demonstrates there are no feasible alternatives to the site design to accommodate 1,000 square feet of building coverage and/or 400 square feet of lot coverage without using a portion of the wetland buffer; and

b. The proposed development or activity is designed to utilize the 50 percent adjustment to the dimensional standards listed in 17.43.070 C. 1. to develop within the available upland to the maximum extent practicable; and

c. The reduced buffer width will not result in degradation of the wetland's functions and values as demonstrated by an assessment from a qualified wetland professional; and

d. The lot coverage within the wetland buffer does not exceed 1,000 square feet for the building and 400 square feet for other lot coverage; and

e. Mitigation for the proposed encroachment into the wetland buffer shall be provided in accordance with Section 17.43.070 J; and

f. Compliance with the applicable requirements in Sections 17.43.070 E. through M.

4. Wetland Buffer and Wetland Encroachment and Mitigation. Where the upland portion of the lot-of-record cannot accommodate 1,000 square feet of building coverage and 400 square feet of lot coverage, and the wetland buffer reduction cannot accommodate this amount of development, the approval authority shall allow development first within the wetland buffer and/or second within the protected wetland when all the following criteria are met:

    a. The site alternative analysis prepared by the applicant demonstrates there are no feasible alternatives to the site design to accommodate 1,000 square feet of building coverage and 400 square feet of other lot coverage without using a portion of the wetland buffer and/or wetland; and

    b. The proposed development or activity is designed to utilize the 50 percent adjustment to the dimensional standards listed in 17.43.070 A. 3. to develop within the available upland to the maximum extent practicable; and

    c. The development, with the mitigation required in Section 17.43.070 J., will not result in degradation of the wetland's functions and values as demonstrated by the best professional judgement from a qualified wetland professional using a method accepted by the Oregon Department of State Lands; and

    d. The lot coverage within the wetland buffer and wetland does not exceed 1,000 square feet for building coverage and 400 square feet for other lot coverage; and

    e. Mitigation for the proposed encroachment into the wetland buffer and/or wetland shall be provided in accordance with Section 17.43.070 J; and

    f. Compliance with the applicable requirements in Sections 17.43.070 E. through M.

D. Approval Criteria for Development Exempt from Wetland Lot-of-Record Requirements. Development that is not specified in Section 17.43.070 B. shall be subject to relevant requirements in Sections 17.43.070 E. through M. The following improvements are exempt from the wetland lot-of-record requirements but shall comply with all applicable requirements in this chapter:

1. Streets;

2. Public sidewalks, pathways, and trails;

3. Utilities;

4. Land Divisions and Lot Line Adjustments;

5. Stormwater Management;

6. Wetland Mitigation and Enhancement; and

7. Vegetation Management.

E. **Streets** shall comply with following applicable standards:

1. Streets in the WO zone shall be constructed of permeable materials.

2. Streets crossing protected wetlands or wetland buffer areas shall be no wider than 20 feet.

3. Streets in wetlands shall constructed in a manner that allows the free flow of water beneath the street.

4. Streets in wetland buffer areas may be placed on piling or fill, whichever is deemed least impactful by a qualified wetland professional.

F. **Sidewalks, Pathways and Trails**. Development of new sidewalks, pathways and trails may be permitted in protected wetlands and in wetland buffer areas subject to the applicable requirements in this title and the following standards:

1. Sidewalks, pathways, and trails across wetland buffer areas or wetlands may only be developed or maintained in a manner that does not restrict water movement. Bridges shall be used to cross open water areas.

2. Routes for new sidewalks, pathways, and trails shall be chosen to avoid traversing wetlands. Route alignments around the perimeter of wetlands, and in wetland buffer areas, are preferred.

3. Sidewalks, pathways, and trails within wetlands and wetland buffers shall be a maximum of 12 feet wide and constructed of permeable material or on pilings.

G. **Utilities**. Electric power lines, telephone lines, cable television lines, water lines, wastewater collection lines, and natural gas lines may be permitted in protected wetlands and in wetland buffer areas subject to the following standards:

1. Underground utilities, including water, wastewater, electricity, cable television, telephone, and natural gas service, may be routed through wetland buffer areas in trenches provided the following standards are met:

   a. Material removed from the trench is either returned to the trench as back-fill within a reasonable period of time, or, if other material is to be used to back-fill the trench, excess material shall be immediately removed from the wetland area. Side-casting into a wetland for disposal of material is not permitted;

   b. Topsoil and sod shall be conserved during trench construction or maintenance, and replaced on the top of the trench;

   c. The ground elevation shall not be altered by the utility trench construction or maintenance; and

   d. Routes for new utility trenches shall be selected to minimize vegetation removal and hydraulic impacts on wetlands.

2. Aboveground utilities, including electricity, cable television, and telephone service, may be routed through protected wetlands and wetland buffer areas on poles subject to the following standards:

    a. Routes for new utility corridors shall be selected to minimize adverse impacts on the wetland, and to minimize vegetation removal; and

    b. Vegetation management for utility corridors in wetlands and wetland buffer areas shall be conducted according to the standards in Section 17.43.070 K.

3. Utility maintenance roads in wetlands and in wetland buffer areas must meet applicable standards in Section 17.43.070 E.

4. Common trenches, to the extent allowed by the building code, are encouraged to minimize ground disturbance when installing utilities.

5. Underground utilities shall be routed under disturbed areas such as streets, driveways, and off-street parking areas whenever feasible.

H. **Land Divisions and Lot Line Adjustments.** In addition to the applicable requirements in Title 16, subdivisions, replats, partitions, and property line adjustments of a wetland lot-of-record are subject to the following standards:

1. The applicable requirements in Title 16.

2. Preliminary plat maps for proposed subdivisions, replats, partitions, and lot line adjustments involving a wetland lot-of-record must show the protected wetland and wetland buffer boundaries, as determined by a wetland delineation approved by DSL.

3. Subdivisions, replats, partitions, and property line adjustments of upland portions of a wetland lot-of-record are permitted subject to the following standards:

    a. Each proposed lot shall include an upland area that contains a minimum of 1,400 square feet.

    b. The protected wetland and wetland buffer area on the subject property shall be retained on one lot.

c. Wetlands and wetland buffer areas may be counted towards meeting the dimensional requirements of the base zone.

I. **Stormwater Management**. Management of stormwater flowing into protected wetlands or wetland buffer areas is subject to the following standards:

1. The City recognizes that stormwater is an important component of wetland hydrology, and it shall regulate flow of stormwater into or out of wetlands and wetland buffers to ensure no net loss of wetland functions and values. It is the policy of the City that all stormwater that would

naturally flow into wetlands and wetland buffers shall continue to flow into wetlands and wetland buffers in accordance with this Chapter. Uses and activities intended to remove stormwater away from or around wetlands and wetland buffers or to move stormwater within a wetland or wetland buffer are prohibited unless undertaken as part of an approved wetland mitigation or enhancement plan.

2. A stormwater management plan, including the required information specified in Section 17.43.060 G. shall be submitted for approval by the public works director according to the following standards:

a. Stormwater runoff should be directed toward the same drainage system that would have handled the runoff under natural conditions. Where the public works director determines that stormwater volumes are or will be significant, stormwater management systems must disperse and potentially delay stormwater rather than discharging it at a single point.

b. Stormwater flowing onto protected wetlands and wetland buffers from any use or activity permitted under this Chapter 17.43 shall be treated to remove contaminants and sediment. There shall be a preference for passive methods of stormwater management, which may include but are not limited to: bioretention and rain gardens; vegetated swales, buffers and strips; roof leader disconnection; and impervious surface reduction and disconnection.

c. Where the use or activity involves point source water discharge, new or modification of an existing road or parking lot, one or more active methods shall be employed including but are not limited to: catch basins and catch basin inserts; hydrodynamic separators; media filters; and advanced water treatment.

J. **Wetland Mitigation and Wetland Enhancement**. Except for Wetland Buffer Averaging in 17.43.070 C.2., all projects involving development, removal or fill in a protected wetland or wetland buffer must provide a wetland mitigation and/or wetland enhancement plan that meets the following standards to retain wetland functions and values.

1. The proposed activities and development in wetlands or wetland buffer areas satisfy the requirements of Section 17.43.070 B.

2. The wetland mitigation and/or wetland enhancement plan shall be prepared by a qualified wetland professional, and it shall address anticipated impacts of the proposed development on the wetland or wetland buffer along with proposed measures to mitigate the onsite wetland and wetland buffer encroachment. Mitigation actions shall include, but not be limited to, the restoration of native vegetation, restoration of hydric soil, restoration of the clay pan or other natural water barriers, restoration of natural slopes and contours, restoration of natural drainage or water flows, restoration of the wetland's nutrient cycle, and the restoration of wildlife habitat that may be impacted by the proposed development or activity.

3. Mitigation ratios. When mitigation is required, the following requirements shall be satisfied:

a. When wetland impacts require mitigation per federal or state regulations, then federal or state wetland mitigation ratios will apply, so long as equal to or greater than the City minimum requirement.

b. If wetland impacts are below federal and state thresholds for a removal fill permit or are exempt from federal or state regulations, then:

   i. Wetland mitigation that is provided within the wetland shall require a1:1 mitigation area ratio within the wetland on the site.

   ii. Wetland mitigation that is provided within the adjacent wetland buffer shall require a 2:1 mitigation area ratio.

c. Wetland buffer mitigation that is provided within the wetland buffer shall satisfy one of the following:

   i. Wetland buffer mitigation can occur as expansion of buffer at a 1:1 area ratio; or

   ii. Wetland buffer enhancement of marginal or degraded buffer conditions at a 1:1 area ratio.

d. Upon approval, the mitigation plan shall be integrated with the design package, and it shall be the responsibility of the building official to confirm compliance with the mitigation plan before issuing a certificate of occupancy. In the event that mitigation efforts have not been completed when occupancy is requested, the owner or the owner's agent may certify in writing that owner or their agent will complete the mitigation plan within a specified period. The certification shall represent the owner's or owner's agent's agreement that in exchange for granting the certificate of occupancy, the mitigation plan will be completed in accordance with its terms.

e. If a landowner or responsible party fails to implement a mitigation plan, the City may undertake any action necessary to comply with the mitigation plan and all associated costs and accrued interest thereon shall become the immediate responsibility of the landowner or responsible party.

4. Monitoring results shall be provided to the City on an annual basis prior to the end of the calendar year. If results show a risk of not meeting the success criteria detailed in the mitigation plan, then corrective actions to be implemented shall be described in the monitoring report. The mitigation plan will remain in effect for a period of 5 years following completion of the development or project, unless extended for non-compliance, with an affirmative obligation on the part of the applicant to restore or repair mitigation efforts, as required by the approved mitigation plan through the end of the effective period.

K. **Vegetation Management**. Vegetation in protected wetlands and in wetland buffer areas may be managed (including planting, mowing, pruning and removal) subject to the following standards:

1. Tree removal in wetlands and in wetland buffer areas shall be consistent with the criteria and standards in Chapter 17.70, tree removal.

2. Tree pruning is prohibited unless:

    a. Necessary for placement of a dwelling or driveway approved pursuant to this chapter including required vehicular and utility access, subject to the requirements in Section 17.70.030(B) and (Q); or

    b. Necessary for maintenance of an existing dwelling or driveway; or

    c. Necessary for correction or prevention of foreseeable danger to public safety, or a foreseeable danger of property damage to an existing structure; or

    d. Part of an approved restoration, enhancement, or compensatory mitigation plan.

3. The fact that a tree or part thereof is or may be dead or compromised (e.g., a snag) is not a sufficient criterion for its removal or pruning unless the property owner demonstrates foreseeable danger to public safety, or a foreseeable danger of property damage to an existing structure. An application for the removal of a dead tree shall require an International Society of Arboriculture (ISA) Tree Hazard Evaluation Form prepared by a certified arborist at the property owner's sole expense.

4. Tree trunks, stumps, roots, and boughs of trees removed or pruned in wetlands and wetland buffers pursuant to this chapter shall be left by the property owner in situ. When a tree is removed, it shall be topped at the highest point possible that avoids hazards while leaving as much stump or snags as possible for wildlife habitat.

5. In all cases, removal or pruning of trees from wetlands and wetland buffers must follow best professional standards to ensure that wetlands and wetland buffer areas functions and values are not compromised.

6. Any tree removed in accordance with this title or damaged by activities authorized under this title shall be replaced by the property owner with a tree on the wetland lot-of-record of comparable native species.

7. Vegetation removal in a wetland shall be the minimum necessary and in no case shall it substantially impair wetland functions and values. Removal of vegetation, except trees covered by Chapter 17.70, in wetlands and in wetland buffer areas is permitted only if:

    a. Necessary for placement of a structure for which a building permit has been issued (or for which a building permit is not needed); or

    b. Necessary for maintenance of an existing structure, road, or pathway; or

    c. Necessary for correction or prevention of a hazardous situation; or

d. Necessary for completion of a land survey; or

e. Part of an approved restoration, enhancement, or compensatory wetland or wetland buffer mitigation plan.

8. Pruning or mowing of vegetation in wetlands and in wetland buffer areas shall be the minimum necessary and in no case shall it substantially impair wetland functions and values. It shall be permitted only if:

   a. Necessary for placement of a structure for which a building permit has been issued (or for which a building permit is not needed); or

   b. Necessary for maintenance of an existing structure, road, or pathway; or

   c. Necessary for correction or prevention of a hazardous situation; or

   d. Necessary for completion of a land survey; or

   e. Part of an approved restoration, enhancement, or compensatory mitigation plan; or

   f. Part of a landscape plan approved by the city in conjunction with a building permit that minimizes adverse impacts on wetlands.

9. Planting new native vegetation in wetlands is permitted subject to the following standards:

   a. The planting is part of an approved restoration, enhancement, or mitigation plan; or

   b. The planting is part of a landscape plan involving native wetland plant species, and the plan is approved by the city in conjunction with approval of a building permit; or

   c. The planting is intended to replace dead or damaged plants that were either part of a maintained landscape or part of the existing wetland plant community.

10. Planting new native vegetation in wetland buffer areas is permitted as part of a managed garden or landscape.

11. Vegetation management practices will be employed in wetlands and in wetland buffer areas that minimize short-term and long-term adverse impacts on wetlands. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with chemicals, unnecessary or excessive vegetation removal, and substantial alteration of native wetland plant communities. The following are not permitted as part of a vegetation management plan for wetlands or wetland buffer areas: alteration of wetland hydrology, use of herbicides consistent with state and federal regulations, or application of fertilizer.

L. Construction Standards

1. Construction management practices will be employed in protected wetlands, wetland buffer areas, and the upland portion of a wetland-lot-of-record that address impacts to wetland values and function. Impacts to be avoided or minimized include: turbidity, erosion, sedimentation, contamination with construction waste or debris, unnecessary or excessive vegetation removal, and damage to existing vegetation. At a minimum, temporary erosion fencing shall be installed between areas to be disturbed and adjacent wetlands and wetland buffer areas. Construction equipment shall be kept out of wetlands and wetland buffers unless required for an approved use, which will require that signs are posted at appropriate intervals to restrict entry by equipment or personnel. Construction debris shall be removed from the site and properly disposed of. Chemicals, paints, and solvents, including paint tools, masonry equipment, and drywall tools, shall be used, cleaned, and stored in a manner that does not result in discharge of wastewater to waters of the state or placement of pollutants such that they could enter waters of the state. Any and all washdown of concrete trucks shall occur offsite. All construction activities shall be conducted as required by the city manager.

2. Pile-supported construction may use wood piling (treated or untreated), steel piling, concrete piling, or other piling material meeting building code requirements. If treated wood piling or posts are used for structures in wetlands, the following standards are applicable:

    a. Treated wood shall be completely dry;

    b. Treated wood shall not have any wet wood preservative on the wood surface; and

    c. The type of chemical treatment chosen shall be the type that minimize possible contamination of the wetland environment.

3. When removal and fill are is approved by the Department of State Lands and/or US Army Corps of Engineers, the requirements of those permits shall prevail. For development approved by the city approval authority, the following standards shall be satisfied:

    a. All fill material shall be clean and free of contaminants;

    b. Filled area sides shall be finished to a stable slope;

    c. Measures shall be incorporated into the fill design to minimize erosion or sloughing of fill material into wetlands;

    d. Fills shall be designed in a manner that complies with Chapter 17.38 Flood Hazard Overlay Zone; and

    e. Fill side slopes shall be revegetated with native plant species, as recommended by a qualified wetland professional, to stabilize the slope.

5. To avoid harm to wetlands and wetland buffers from excessive traffic and frequent visitors who are unaware of wetland protections, short term rentals shall provide protection signage or education materials regarding wetland protection on the site.

6. Excavation in wetlands and in wetland buffer areas for any purpose must meet the following standards:

    a. Excavation for purposes of gravel, aggregate, sand, or mineral extraction is not permitted.

    b. Excavation for utility trenches in wetland buffer areas is subject to the following standards:

        i. Material removed from the trench is either returned to the trench (back-fill) or removed from the wetland area. Side-casting into a wetland for disposal of material is not permitted;

        ii. Topsoil shall be conserved during trench construction or maintenance, and replaced on the top of the trench; and

        iii. The ground elevation shall not be altered as a result of utility trench construction or maintenance. Finish elevation shall be the same as starting elevation.

    c. Excavation for building footings in wetlands is subject to the following standards:

        i. Material removed for approved footings is either returned to the trench (back-fill), or removed from the wetland or wetland buffer area. Side-casting for disposal of material is not permitted;

        ii. Disturbance of wetland vegetation and topsoil during footing construction shall be minimized; and

        iii. The ground elevation around a footing shall not be altered as a result of excavation for the footing, unless required to meet building code requirements for positive drainage. Finish elevation shall be generally the same as starting elevation.

    d. Excavation for wetland enhancement is subject to the following standards:

        i. No more material than necessary and specified in the enhancement plan shall be excavated; and

        ii. Side-casting for disposal of excavated material is not permitted; however, excavated material may be placed in a wetland or wetland buffer area for enhancement purposes as specified in the enhancement plan.

M. Mapping Delineated Wetlands and Wetland Buffers. As a condition of approval, the applicant shall provide digital GIS mapping data of the accepted wetland delineation or resulting change in the boundary of a protected wetland and wetland buffer to the city manager for the purpose of updating the city's LWI map file.

To: Cannon Beach City Council

From: Cannon Beach Planning Commission

Date: March 23, 2024

RE: Recommended action on ZO 23-02

As you are aware, the Planning Commission recently unanimously voted to recommend that City Council adopt revisions to the City's Wetland Overlay code to increase protections for our local wetlands. In our discussions, two points were raised that Planning Commission wishes to elevate for City Council. These issues are included in the record, but we have provided a summary below of our discussions on these points.

Notably, both of the issues below relate to definitions within *existing* Wetland Overlay municipal code that were unchanged in the proposed revisions.

Uses Allowed in a Wetland Lot-of-Record

The first issue raised by written public comments relates to the definition of a "wetland lot-of-record." To recap, the proposed revised Wetland Overlay code maintains the same definition of a "wetland lot-of-record" that is in our current code. Thus, the issue raised here applies whether the revised code is adopted or not. The current municipal code allows one residential structure per wetland lot-of-record, which includes contiguous lots held in common ownership since 1993, where there is not sufficient upland to allow for at least one residence. Note – if there is sufficient upland to accommodate residences on each contiguous lot, this provision does not limit development.

The commenter was concerned because this means that only one structure per all contiguous lots held in common ownership can intrude into wetland or wetland buffer, but if those lots were sold to other individuals, each individual lot owner would have a right to build a structure that intrudes onto wetland or wetland buffer.

Planning Commission received these comments at the time of their findings meeting following provisional recommendation for adoption. Nonetheless, we discussed this concern. On one hand, there is an added layer of environmental protection in allowing only one structure per owner of contiguous lots. On the other hand, it is also true that if contiguous lots were sold to separate buyers, each new owner could place a structure on each separate lot, thus undermining the protections imposed by the contiguous-ownership provision. Ultimately, the Planning Commissioners felt that due to both the late timing of the comments and the policy implications, this was an issue better addressed by City Council.

Status of Impacted Buffer Areas

The second issue that arose late in the Planning Commission's deliberation process regards the classification of buffer areas that are currently impacted by development. As you

know, the revised Wetland Overlay zone would include a fifty-foot buffer. This is a substantial increase from the current buffer width such that there will be a number of existing uses located within the buffer area, and these pre-existing uses that may be continued and maintained. The current approach is that that the land underneath existing paved areas and parking structures is defined as "wetland buffer."

One commenter has suggested that, in contrast to both current and proposed Wetland Overlay municipal code, the land under any existing use should be defined as "non-buffer" by removing it from the Wetland Overlay zone. Planning Commission considered this suggestion but decided to recommend the current Wetland Overlay provision in which land within the buffer zone remains wetland buffer even if there is a pre-existing use over it.

As a staring point, we noted that the current municipal code states that wetland buffer that has been filled remains buffer. The likely reasoning is that there should be no incentive (e.g., removal from the Wetland Overlay zone) for filling sensitive wetland or buffer areas. The Planning Commission agreed to replace the term "filled" with "impacted" in 17.43.020.E in order to capture instances in which an area has been not only filled but also when development has created an impervious surface in a wetland buffer. However, proposed 17.43.020.E currently states that impacted buffers shall "remain" buffer, just as is in current municipal code.

The commenter asserted that once an area of buffer has been impacted, it is no longer providing hydrological and biological benefits to the wetland. While this may be true, the Planning Commission discussed the fact that some areas that some pre-existing uses may be redeveloped in the future, at which point there would be an opportunity for mitigation or buffer restoration, thereby enhancing the health of our local wetlands for future generations.

Not only is maintaining currently impacted areas as buffer important for future changes in buffer use, but also it simplifies the City's administrative burden. As noted above, there will be a number of existing structures in the expanded buffer area. Mapping and tracking every existing "impact" and removing it from designated wetland buffer areas would create a large amount of administrative overhead that would unnecessarily tax our Planning Department with its limited staffing. There would be significant confusion in the event a use is changed in the future when attempting to track exactly which square foot within the buffer zone is designated buffer or not. Unlike large municipalities that can contract with specialized entities to track these uses, Planning Commission is concerned that Cannon Beach is not in a position to do so.

In short, Planning Commission voted to recommend the adoption of the proposed Wetland Overlay revisions that includes maintaining the practice of consistent designation of land within the buffer zone as wetland buffer without regard for existing uses. Nonetheless, we realize this may be an issue that City Council may wish to take up in its deliberations.

BEFORE THE COMMON COUNCIL OF CANNON BEACH

ZO 23-02, City of Cannon Beach Request for Zoning Ordinance Text Amendments to Chapter 17.43 Wetland Overlay Zone	))	ORDINANCE NO. 24-XX

WHEREAS, the purpose of the Cannon Beach Comprehensive Plan is to control and promote development which is most desirable to the majority of the residents and property owners of the City; and

WHEREAS, the Cannon Beach Comprehensive Plan is intended to be a statement of the people of the community concerning their desires for future development. As such, it has been developed in an open, well-publicized process; and

WHEREAS, wetlands provide important environmental and social benefits to urban and rural environments including filtering water, reducing flood damage by storing and slowing floodwater, providing food and habitat for fish and other species and offering recreational opportunities; and

WHEREAS, wetlands filter out chemicals such as nitrogen and phosphorus from fertilizers, and other water-borne pollutants by acting as natural water purifiers that absorb excess nutrients, bacteria, sediments, and other pollutants form the water; and

WHEREAS, wetlands trap sediments from waters that pass through them which excessive amounts of sediment can damage the aquatic ecosystem and fish habitat; and

WHEREAS, wetlands function as natural storage areas during periods of floods and this stored flood water is then released slowly down stream, minimizing the negative impact of the flood water on stream banks; and

WHERAS, wetlands provide water, food, shelter, and habitat for many wildlife species; and

WHEREAS, wetlands can be coordinated with parks and open space to provide pleasant green spaces where birds and other wildlife can be observed; and

WHEREAS, the purpose of the wetlands overlay zone is to protect wetland areas identified in the city's Local Wetland Inventory from uses and activities that are inconsistent with the maintenance of the wetland functions and values identified for those sites, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; carbon sequestration; thermal refugia, and improving water quality through biofiltration, adsorption, retention, and transformation of sediments, nutrients, and toxicants; and

WHEREAS, wetland areas also serve significant community wellness purposes such as mental and emotional well-being and sense of community in nature.

WHERAS, the public hearing on the above-entitled matter was opened and closed before the Planning Commission on 10/26/23, 02/22/24 and 03/07/24 and 03/12/24 meetings and recommended to the City Council that the Zoning Ordinance Text Amendments to Chapter 17.43 Wetland Overlay Zone be approved; and

WHEREAS, the public hearing on the above-entitled matter was opened and closed before the City Council at the 05/07/24 meeting and the City Council rendered a final decision to approve the Zoning Ordinance Text Amendments to Chapter 17.43 Wetland Overlay Zone change.

NOW, THEREFORE, THE CITY OF CANNON BEACH ORDAINS AS FOLLOWS:

Section 1. The Zoning Ordinance Text Amendments to Chapter 17.43 Wetland Overlay Zone is amended as adopted.

Section 2. The Findings of Fact and Conclusions of Law attached to this Ordinance as Exhibit A are adopted in support of this decision.

ADOPTED by the Common Council of the City of Cannon Beach this 7 day of May 2024,
by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

_____
Barb Knop, Mayor

Attest:

_____
Bruce St. Denis, City Manager

Approved as to Form

_____
Ashley Driscoll, City Attorney

CANNON BEACH CITY COUNCIL

BEFORE THE CITY COUNCIL

OF THE CITY OF CANNON BEACH

IN THE MATTER OF A ZONING TEXT AMENDMENT:

CITY OF CANNON BEACH REQUEST FOR ZONING ORDINANCE TEXT AMENDMENTS TO CHAPTER 17.43 WETLAND OVERLAY ZONE.

FINDINGS OF FACT, CONCLUSIONS AND ORDER NUMBER – ZO #23-02

Applicant: City of Cannon Beach
163 E. Gower Street
Cannon Beach, OR 97110

The City of Cannon Beach applied for a zoning text amendment to chapter 17.43 Wetland Overlay Zone of the City of Cannon Beach Zoning Ordinance. The zoning text amendment request was reviewed against the criteria of the Municipal Code, Section 17.86.070(A), Amendments Criteria and the Statewide Planning Goals.

The initial evidentiary public hearing on the above-entitled matter was opened before the Planning Commission on October 26, 2023, and the matter was continued. The application was further discussed at the February 22, 2024, Plan Commission meeting and after deliberating the Plan Commission decided to hold the matter until some additional amendments were completed. The application was further discussed at the March 7, 2024, Planning Commission meeting and after deliberating the Plan Commission decided to hold the matter until some additional amendments were completed. The application was again discussed at the March 12, 2024, Planning Commission meeting. At that meeting the Plan Commission closed the public hearing, deliberated, and recommended to the City Council that the text amendment to the zoning ordinance be approved.

The public hearing on the above-entitled matter was opened before the City Council on 05/07/24; the City Council closed the public hearing at the 05/07/24 meeting and approved the text amendment to the zoning ordinance.

THE CITY COUNCIL ORDERED that the TEXT AMENDMENT TO THE ZONING ORDIANCE be APPROVED through the adoption of an ordinance and findings of fact, conclusions and conditions contained in Exhibit "A." The effective date of the ordinance is 30 days following adoption of the ordinance.

This decision may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) by an affected party by filing a notice of intent to appeal a land use decision within 21 days after the date of the decision sought to be reviewed becomes final.

All information submitted to and utilized by the Plan Commission and City Council to make this decision are adopted by reference (including but not limited to applications, plans, documentation, written and oral testimony, exhibits, etc.).

The complete case, including the final order is available for review at the city.

CANNON BEACH CITY COUNCIL

_____ _____

Mayor Barb Knop Date

CANNON BEACH CITY COUNCIL

STAFF REPORT

CITY OF CANNON BEACH, REQUEST FOR A FOR A TEXT AMENDMENT TO MUNICIPAL CODE CHAPTER 17, ZONING. THE REQUEST IS FOR A GENERAL REORGANIZATION OF THE ZONING ORDINANCE AND COMBINATION WITH CHAPTER 16, SUBDIVISIONS. THE REQUEST WILL BE REVIEWED AGAINST THE CRITEIRA OF MUNICIPAL CODE 17.86.070 AMENDMENTS AND THE STATEWIDE PLANNING GOALS. ZO 24-01

Agenda Date: May 7, 2024 **Prepared by:** Steve Sokolowski
Community Development Director

BACKGROUND

The initial evidentiary public hearing on the above-entitled matter was opened before the Planning Commission on 01/25/24, and the matter was continued. The application was further discussed at the February 15, 2024, Plan Commission work session meeting. The application was further discussed at the March 28, 2024, Plan Commission meeting; the Planning Commission closed the public hearing at the March 28, 2024, meeting, and after deliberating recommended to the City Council that the text amendment to the zoning ordinance be approved.

The City of Cannon Beach City Council is now holding a hearing regarding a proposed reorganization of Title 16 Subdivisions and Title 17 Zoning into one Community Development Ordinance (CDO). The purpose of this reorganization is to make the city land use and development regulations easier to understand and use. The reorganization is in response to a code audit conducted in 2021 and 2022 that recommended a reorganization of Titles 16 and 17 into one title covering zoning and land divisions. As a reorganization, it is intended to be as content-neutral as possible.

During this hearing, and possible future hearings on the matter, the Council will hear evidence regarding the proposal, conduct deliberations, and make a decision to approve or deny the proposed code reorganization. This is an opportunity for everyone who has an interest in the reorganization to have their voices heard.

The Urbsworks team will provide an overview of the proposal. Then the Council will accept testimony during the hearing. The Council will deliberate and then decide what action will be taken such as continuing the hearing or making a formal decision to approve or deny the proposed zoning ordinance amendment.

APPLICABLE CRITERIA AND FINDINGS

17.86.070 Criteria

A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:

1. *The amendment is consistent with the comprehensive plan;*

2. *The amendment will not adversely affect the ability of the city to satisfy land and water use needs.*

Staff Comment: The proposed amendments are consistent with the City of Cannon Beach Comprehensive Plan and will not adversely affect the ability of the city to satisfy land and water use needs based on the following:

- The proposed amendments are a reorganization, and they will not change the current code requirements, approval criteria, or review procedures. Therefore, the revision of Titles 16 and 17 into one CDO does not alter the current consistency of the code with the Comprehensive Plan.

- Citizen Involvement Policy 1. States "Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies." Providing a reorganized CDO that is easier to read and understand will support this plan policy.

Consistency with the Statewide Planning Goals

As noted above, the proposed amendments area reorganization of titles 16 and 17 into a Community Development Ordinance with improved organization and readability. The content titles 16 and 17, including standards and review procedures remain the same. Therefore, the effect of the proposed code reorganization amendments are neutral regarding of the Statewide Planning goals except for Goals 1 and 2, which are addressed below:

Goal 1 - Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

Staff comment: The ordinance amendments were created with citizen involvement beginning with the code audit project in 2021, which culminated with a recommendation to reorganize Titles 16 and 17 into a unified Community Development Ordinance. This involved the Planning Commission, Design Review Board, City Council, city staff, and the public. Following the recommendation to reorganize the existing code, the city has conducted public work sessions and hearings to consider and ultimately adopt the reorganized ordinance. In addition to this public involvement, future citizen involvement will benefit from having a unified ordinance related to land development in the city. The code reorganization will be more user-friendly and easier for practitioners and citizens to understand compared to the existing ordinance. This goal is satisfied.

Goal 2 - Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Staff comment: The reorganized Community Development Ordinance is logically divided into six articles containing chapters covering related provisions, such as review procedures, base zones, and land divisions. As mentioned above, the reorganized ordinance will be easier to navigate and use. This in turn will support the land use planning process and outcomes. This goal is satisfied.

RECOMMENDATION

The Plan Commission reccomends that the City Council find the proposed text amendment consistent with applicable comprehensive plan policies, criteria in the City's zoning ordinance, and statewide planning goads and recommend approval of the proposed zoning ordiance amendment (ZO 24-01).

Motion

Based on a motion by Councilor (NAME), seconded by Councilor (NAME), the Cannon Beach City Council moves to (approve/deny) the proposed zoning ordiance amendmet to Municipal Code Chapter 17, Zoning (ZO 24-01).

LIST OF ATTACHMENTS

A. Proposed Chapter 17 Zoning Ordinance
B. Draft Ordinance
C. Draft Orders

CANNON BEACH CDO
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ARTICLE VII IMPROVEMENT STANDARDS – This was proposed but doesn't appear necessary. All Title 16 and 17 standards are included in Articles I – VI.

Article I – Introduction and General Provisions

Chapter 17.02 GENERAL PROVISIONS

17.02.010 Title.

The ordinance codified in this title is known and may be cited as the "Community Development Ordinance of Cannon Beach, Oregon." (Ord. 79-4 § 1 (1.010))

17.02.020 Purpose.

The purpose of this title is to encourage appropriate and orderly physical development in the city through standards for provision of adequate open space for light and air, desired levels of population density, workable relationships of land uses to the transportation system, adequate community facilities, assurance of opportunities for effective utilization of land, and to promote in other ways public health, safety, convenience, and general welfare. (Ord. 79-4 § 1 (1.020))

17.02.030 Interpretation.

Where the conditions imposed by any provisions of this title are less restrictive than comparable conditions imposed by any other provisions of this title, resolution or comprehensive plan, the provisions which are more restrictive shall govern. (Ord. 79-4 § 1 (12.010))

17.02.040 Severability.

The provisions of this title are severable. If any section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this title. (Ord. 79-4 § 1 (12.020))

Chapter 17.04 DEFINITIONS

The following words and phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

17.04.010 Definitions of Specific Terms

Access.

"Access" means the way or means by which pedestrians and vehicles enter and leave the property. (Ord. 86-16 § 1(1); Ord. 86-10 § 1(1))

Alley.

"Alley" means a public or private way, no more than 20 feet in width, which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street. (Ord. 08-1 § 1; Ord. 86-16 § 1(3); Ord. 86-10 § 1(3))

Alteration.

"Alteration" means a change in construction or a change of occupancy. Where the term "alteration" is applied to a change of construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another. (Ord. 86-16 § 1(4); Ord. 86-10 § 1(4))

Alteration, structural.

"Structural alteration" means a change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams, or girders. In addition, any change to the external dimensions of the building shall be considered a structural extension. (Ord. 86-16 § 1(5); Ord. 86-10 § 1(5))

Alteration, temporary.

"Temporary alteration" means dredging, filling, or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by an acknowledged plan. Temporary alterations may not be for more than 3 years, and the affected area must be restored to its previous condition. Temporary alterations include:

1. Alterations to establish mitigation sites, estuarine enhancement, and alteration for bridge construction or repair, and

2. Minor structures (such as blinds) necessary for research and educational observation. (Ord. 86-16 § 1(6); Ord. 86-10 § 1(6))

Amusement device.

"Amusement device" means any mechanical, electronic, mechanical-electronic or non-mechanical mechanism which is designed for the amusement of players or operators and is complete in itself having as its purpose the production or creation of a game of skill, amusement, entertainment or test of strength, including, but not limited to video games of any types, shuffleboard, coin-operated devices utilizing tables, boards or cases of any size whatever, balls, sticks, cues, pegs or marbles, and whether or not any motivating force involved is furnished by the player or device. (Ord. 88-12 § 1)

Basement.

"Basement" means that portion of a building which is partially or completely below grade, but not including a crawl space. (Ord. 03-7 § 4)

Beach.

"Beach" means gently sloping areas of loose material (e.g., sand, gravel, cobbles) that extend landward from the low water line (extreme low tide) to a point where there is a definite change in the material type or landform or to the line of year-round established vegetation. In most cases, the line of vegetation is followed by the Oregon Beach Coordinate or zone line, as defined by ORS 390.770. Where the vegetation line is eastward or landward of the coordinate line, the eastward line of the beach shall be the actual line of vegetation. (Ord. 86-16 § 1(8); Ord. 86-10 § 1(8))

Bridge crossing.

"Bridge crossing" means the portion of a bridge spanning a waterway or wetlands, not including supporting structures or fill. (Ord. 86-16 § 1(11); Ord. 86-10 § 1(11))

Bridge crossing support structures.

"Bridge crossing support structures" means piers, pilings, and similar structures necessary to support a bridge span but not including fill for causeways or approaches. (Ord. 86-16 § 1(12); Ord. 86-10 § 1(12))

Building.

"Building" means a structure built for the support, shelter or enclosure of persons, animals, or property of any kind. (Ord. 86-16 § 1(13); Ord. 86-10 § 1(13))

Building coverage.

"Building coverage" means the portion of the lot area that is covered by buildings. The area of the buildings shall be measured at their exterior perimeter. Buildings include dwellings, accessory structures, garages, and carports. (Ord. 92-11 § 5)

Building envelope.

"Building envelope" means a delineated portion of a lot or parcel within which the entire building(s) and associated improvements must be constructed.

Building height.

"Building height" means the vertical distance measured from the average elevation of existing grade to the highest point of the roof surface of a flat roof, to the top of a mansard roof, or to the mean height level between the eaves and the ridge for a pitched roof. Average elevation of existing grade shall be measured at the vertical projection of the enclosed building space. (Ord. 86-16 § 1(14); Ord. 86-10 § 1(14))

Building line.

"Building line" means a horizontal line that coincides with the front side of the main building. (Ord. 86-16 § 1(15); Ord. 86-10 § 1(15))

Bulk.

"Bulk" means cubic volume of building. (Ord. 86-16 § 1(16); Ord. 86-10 § 1(16))

Bulkhead.

"Bulkhead" means a vertical wall of steel, timber, or concrete piling. (Ord. 86-16 § 1(17); Ord. 86-10 § 1(17))

City.

"City" means the city of Cannon Beach, a municipal corporation of the state of Oregon, situated in Clatsop County.

City Council.

"City council" means the city council of the city of Cannon Beach.

Clearing.

"Clearing" means any activity that removes vegetative cover.

Compensatory mitigation.

"Compensatory mitigation" means the creation, restoration, or enhancement of a wetland area to maintain the functional characteristics and processes of the wetland system, such as its natural biological productivity, habitats, aesthetic qualities, species diversity, open space, unique features and water quality. (Ord. 94-29 § 1)

Day.

"Day" means a calendar day, unless otherwise specified.

Deflation plain.

"Deflation plain" means an interdune area which is wind scoured to the height of the summer water table. (Ord. 94-08 § 3)

Density, net.

"Net density" means the number of dwelling units per unit of land expressed as the number of square feet of land per dwelling unit. The net density for any lot is computed by dividing the net square footage of the parcel by the number of dwelling units. The net square footage is determined by subtracting from the total square footage of the parcel that which is deemed necessary for street dedication and that area used for private streets and common driveways, if any. (Ord. 86-16 § 1(22); Ord. 86-10 § 1(22))

Dike.

"Dike" is a structure designed and built to prevent inundation of a parcel of land by water. (Ord. 86-16 § 1(23); Ord. 86-10 § 1(23))

Dock.

"Dock" means a pier or secured float or floats for boat tie-up or other water use, often associated with a specific land use on the adjacent shoreland. (Ord. 86-16 § 1(24); Ord. 86-10 § 1(24))

Dredging.

"Dredging" means the removal of sediment or other material from a stream, river, estuary, or other aquatic area for the purpose of deepening a navigational channel or other purposes. (Ord. 86-16 § 1(25); Ord. 86-10 § 1(25))

Dune.

"Dune" means a hill or ridge of sand built up by wind along sandy coasts. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dune, active.

"Active dune" means a dune that migrates, grows, and diminishes from the force of wind and supply of sand. Active dunes include all open sand dunes, active hummocks and active foredunes. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dune, conditionally stable.

"Conditionally stable dune" means a dune presently in a stable condition, but vulnerable to becoming active due to fragile vegetative cover. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dune grading, remedial.

"Remedial dune grading" means grading that is undertaken on an active dune to protect existing improvements from the effects of wind-borne sand. The grading is intended to remedy the effect of sand inundation that has already occurred. (Ord. 94-08 § 3)

Dune, older stabilized.

"Older stabilized dune" means a dune that is stable from wind erosion and that has significant soil development and that may include diverse forest cover. May include older foredunes. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dune, open sand.

"Open sand dune" means a collective term for active, unvegetated dune landforms. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dune, recently stabilized.

"Recently stabilized dune" means a dune with sufficient vegetation to be stabilized from wind erosion, but with little, if any, development of soil or cohesion of sand under the vegetation. Recently stabilized dunes include conditionally stable foredunes, conditionally stable dunes, dune complexes, and younger stabilized dunes. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dune, younger stabilized.

"Younger stabilized dune" means a wind stable dune with weakly developed soils and vegetation. (Ord. 86-16 § 1(26); Ord. 86-10 § 1(26))

Dwelling unit.

"Dwelling unit" means a room or group of rooms including living, cooking, and sanitation facilities designed for occupancy by one or more persons living as a household unit with a common interior access to all living, kitchen, and bathroom areas. No dwelling unit shall have more than one kitchen. (Ord. 03-7 § 2; Ord. 86-16 § 1(27); Ord. 86-10 § 1(27))

Easement.

"Easement" means recorded authorization by a property owner for the use by another and for a specified purpose of any designated part of his or her property.

Estuarine enhancement.

"Estuarine enhancement" means an action which results in a long-term improvement of existing estuarine functional characteristics and processes that is not the result of a restoration action or the creation of additional estuarine habitat. (Ord. 86-16 § 1(33); Ord. 86-10 § 1(33))

Estuarine fill.

"Estuarine fill" means the placement by man of sediments or other material in an aquatic area to create new shorelands or on shorelands to raise the elevation of the land. (Ord. 86-16 § 1(34); Ord. 86-10 § 1(34))

Excavation.

"Excavation" means the removal of earth material. (Ord. 94-29 § 1)

Family.

"Family" means an individual or two or more persons living together as one housekeeping unit and using one kitchen. (Ord. 92-11 § 3; Ord. 86-16 § 1(35); Ord. 86-10 § 1(35))

Fence.

"Fence" means a protective or confining barrier constructed of wood, masonry, or wire mesh. Fence does not include hedges or other plantings. (Ord. 86-16 § 1(36); Ord. 86-10 § 1(36))

Fill.

"Fill" means the deposit of earth material placed by artificial means.

Flood hazard definitions.

The following words and phrases shall be interpreted to give them the meanings they have in common usage and to give this title its most reasonable application. For the administration of the flood hazard overlay zone the following definitions shall be utilized:

"Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

"Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depth range is from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

"Area of special flood hazard" means the land in the flood plain subject to a 1 percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

"Base flood" means the flood having a 1 percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Below grade crawl space" means an enclosed area below the base flood elevation in which the interior grade is not more than 2 feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

"Breakaway walls" means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high-hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

"Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

"Development" means any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"Elevated building" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"Existing manufactured home park or subdivision" means one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Cannon Beach's floodplain management regulations (1978). The "construction of facilities" includes, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"Expansion of an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Chapter 17.98.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level (MSL)" means the average height of the sea for all stages of the tide.

"New construction" means the structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this section.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

"Recreation vehicle, highway ready" means a recreation vehicle that is on wheels or a jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

"Recreational vehicle" means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a

permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Reinforced Pier” must, at a minimum, have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are replaced in the hollows of the blocks and the hollows filled with concrete or high-strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

“Special flood hazard area (SFHA)” means areas subject to inundation from the waters of a one-hundred-year flood.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, rehabilitation, addition, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

“Structure” means a walled and roofed building, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of its market value before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, 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:

a. Any project for improvements of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 18-3 § 2; Ord. 10-10 §§ 1, 2; Ord. 08-6 §§ 1—5; Ord. 99-3 §§ 1, 2; Ord. 90-10 § 1 (Appx. A §§ 24, 25); Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160) (2))

Floor area ratio.

"Floor area ratio" means the gross floor area divided by the lot area and is usually expressed as a decimal fraction. (Ord. 90-11 A § 1 (Appx. A § 1(2)); Ord. 79-4 § 1.030)

Foredune, active.

"Active foredune" means an unstable barrier ridge of sand paralleling the beach and subject to wind erosion, water erosion and growth from new sand deposits. Active foredunes may include areas with beach grass and occur in sandspits and at river mouths as well as elsewhere. (Ord. 86-16 § 1(38); Ord. 86-10 § 1(38))

Foredune breaching.

"Foredune breaching" means the alteration of the crest of an active foredune or a conditionally stable foredune where the alteration is not undertaken as part of a foredune grading plan, or as maintenance foredune grading. (Ord. 07-03 § 2; Ord. 94-08 § 3)

Foredune, conditionally stable.

"Conditionally stable foredune" means an active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion. (Ord. 86-16 § 1(39); Ord. 86-10 § 1(39))

Foredune grading.

"Foredune grading" means the alteration of active dunes in a manner that changes their shape or height. Foredune grading is intended to be preventive and is undertaken primarily for preservation of the dune system. (Ord. 20-03 § 1)

Foredune grading, maintenance.

"Maintenance foredune grading" means the limited alteration of active dunes that have previously been altered pursuant to an approved foredune grading plan. (Ord. 07-3 § 1)

Foredune, older.

"Older foredune" means a conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development. (Ord. 86-16 § 1(40); Ord. 86-10 § 1(40))

Frontage.

"Frontage" means property abutting on a street. (Ord. 86-16 § 1(41); Ord. 86-10 § 1(41))

Grade, ground level.

"Ground level grade" means the average elevation of the existing ground elevation before construction at the corner of all walls of a building. Where a building has more than four corners, the average elevation shall be measured from the four corners of a square or rectangle that encloses the foundation of the proposed structure. (Ord. 90-10 § 1 (Appx. A § 1(4)); Ord. 86-16 § 1(43); Ord. 86-10 § 1(43))

Grading.

"Grading" means excavation or fill, or any combination thereof, including the conditions resulting from any excavation or fill. (from 17.62.020)

Grazing.

"Grazing" means the use of land for pasture of horses, cattle, sheep, goats, and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits. (Ord. 86-16 § 1(44); Ord. 86-10 § 1(44))

Gross floor area.

"Gross floor area" means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

1. Garages and carports.

2. Entirely closed porches.

3. Basement or attic areas determined to be habitable by the city's building official, based on the definitions in the building code.

4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building's foundation.

In addition, the calculation of gross floor area shall include all portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than 15 feet shall be counted as 200 percent of that floor area. (Ord. 03-7 § 3; Ord. 93-3 § 1; Ord. 90-11A § 1 (Appx. A § 1(1)); Ord. 86-16 § 1(37); Ord. 86-10 § 1(37))

Hedge.

"Hedge" means any combination of nonannual plantings intended to form an obstruction to ingress and egress, and vision, such planting providing no physical or visual space between individual plantings and where branches or foliage of one planting physically contact adjacent plantings. (Ord. 86-16 § 1(47); Ord. 86-10 § 1(47))

Horticulture.

"Horticulture" means the cultivation of plants, garden crops, tree and/or nursery stock. (Ord. 86-16 § 1(49); Ord. 86-10 § 1(49))

Interdune area.

"Interdune area" means the area from the toe of the slope of the lee side of a foredune to the foreslope of the next dune landward. Interdune areas include deflation plains. (Ord. 94-08 § 3)

Kitchen.

"Kitchen" means a room, or portion of a room which is designed, intended, or used for food preparation or cooking. (Ord. 03-7 § 5)

Legislative.

"Legislative" means an amendment to this title or the comprehensive plan or a land use decision that applies to a large number of individuals or properties.

Lot.

"Lot" means a plot, parcel, or tract of land. (Ord. 86-16 § 1(52); Ord. 86-10 § 1(52))

Lot abutting the ocean shore.

"Lot abutting the ocean shore" means a lot which abuts the Oregon Coordinate Line or a lot where there is no buildable lot between it and the Oregon Coordinate Line. (Ord. 86-16 § 1(53); Ord. 86-10 § 1(53))

Lot area.

"Lot area" means the total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, except that the measurement of lot area shall not include portions of a lot located west of the Oregon Coordinate Line. (Ord. 94-08 § 1; Ord. 90-11A § 1 (Appx. A § 1 (3)); Ord. 86-16 § 1 (54); Ord. 86-10 § 1 (54))

Lot, corner.

"Corner lot" means a lot abutting on two streets, other than an alley, at their intersections. (Ord. 08-1 § 3; Ord. 86-16 § 1 (55); Ord. 86-10 § 1 (55))

Lot coverage.

"Lot coverage" means the portion of the lot area that is covered with the following improvements:

1. The area within the exterior perimeter of all buildings, including dwellings, accessory buildings, garages, and carports; and

2. The area of all structures that are 30 inches in height above the existing grade, including porches, decks, stairways; and

3. Paved or graveled areas designated for off-street parking; and

4. That portion of the area of decks, less than 30 inches in height above the existing grade, patios, courtyards, and graveled and paved areas, other than designated off-street parking, which exceeds 25 percent of the allowable lot coverage; and

5. Fifty percent of areas covered with a defined pattern of void spaces to accommodate soil, live vegetation, and drainage between the structural elements, such as Grasscrete or similar treatments.

Lot coverage is expressed as the percentage of the lot area that is covered by the site improvements listed above. The following improvements shall not be included in the calculation of lot coverage:

1. Projections from buildings such as eaves, overhangs and bay windows which meet the requirements of Section 17.60.080, Projections into required yards;

2. Arbors not exceeding 120 square feet in area; and

3. Decks, less than 30 inches in height above the existing grade, patios, courtyards and graveled and paved areas, other than designated off street parking, whose total area does not exceed 25 percent of the allowable lot coverage.

   Example: The lot size is 5,000 square feet. The allowable lot coverage is 50 percent, or 2,500 square feet. The proposed site improvements are: a house with an area within its exterior perimeter of 1,500 square feet; a graveled parking area of 400 square feet; and decks, less than 30 inches above grade with an area of 1,000 square feet. The deck area that is included as part of the lot coverage is determined as follows: total deck area less that portion which does not exceed 25 percent of the allowable lot coverage of 2,500square feet or, 1,000 - 625 (.25 x 2,500) = 375 square feet. The lot coverage of the proposed development is site improvements (1,500 + 400 + 375) divided by lot area (5,000) or 45.5 percent. (Ord. 17-3 § 1; Ord. 92-11 § 4; Ord. 86-16 § 1 (56); Ord. 86-10 § 1 (56))

Lot depth.

"Lot depth" means the average horizontal distance between the front lot line and the rear lot line, where the average horizontal distance is established by utilizing ten-foot increments. (Ord. 08-1 § 4; Ord. 86-16 § 1 (57); Ord. 86-10 § 1 (57))

Lot, interior.

"Interior lot" means a lot that abuts only one street, other than an alley. (Ord. 08-1 § 5; Ord. 86-16 § 1 (58); Ord. 86-10 § 1 (58))

Lot line.

"Lot line" means the property line abounding a lot. (Ord. 86-16 § 1 (59); Ord. 86-10 § 1 (59))

Lot line adjustment.

"Lot line adjustment" means the relocation of a common property line between two abutting properties.

Lot line, front.

"Front lot line" means in the case of an interior lot, the lot line separating the lot from the street, other than an alley. In the case of a corner lot or through lot, the front lot line is the shortest line along a street, other than an alley. Where a lot does not abut a street, the lot line first crossed when gaining vehicular access to the lot from a street is the front lot line. (Ord. 08-1 § 6; Ord. 86-16 § 1 (60); Ord. 86-10 § 1 (60))

Lot line, rear.

"Rear lot line" means a lot line opposite and most distant from the front lot line; and for an irregular or triangular shaped lot, a straight line ten feet in length, within the lot, that is parallel to and at the maximum distance from the front lot line. (Ord. 08-1 § 7; Ord. 86-16 § 1 (61); Ord. 86-10 § 1 (61))

Lot line, side.

"Side lot line" means, for interior lots, a line separating one lot from the abutting lot or lots fronting on the same street; for corner lots or through lots, a line other than the front lot line separating the lot from the street or a line separating the lot from an abutting lot. (Ord. 08-1 § 8; Ord. 86-16 § 1 (62); Ord. 86-10 § 1 (62))

Lot, through.

"Through lot" means a lot abutting two or more streets, other than an alley, that is not a corner lot. (Ord. 08-1 § 9; Ord. 86-16 § 1 (63); Ord. 86-10 § 1 (63))

Lot width.

"Lot width" means the average horizontal distance between the side lot lines, as measured parallel to the front lot line, where the average horizontal distance is established by utilizing ten-foot increments. (Ord. 08-1 § 10; Ord. 86-16 § 1 (64); Ord. 86-10 § 1 (64))

Map.

"Map" means a diagram, drawing or other writing concerning a subdivision or partition.

Mitigation.

"Mitigation" means the creation, restoration, or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary, such as its natural biological productivity, habitats and species diversity, unique features, and water quality. (ORS 541.626). (Ord. 86-16 § 1 (65); Ord. 86-10 § 1 (65))

Nonstructural shoreline stabilization program.

"Nonstructural shoreline stabilization program" means the process of controlling erosion or accretion by planting or propagating stabilizing vegetation and/or the temporary placement of sand fences. (Ord. 94-08 § 3)

Ocean flooding.

"Ocean flooding" means the flooding of lowland areas by salt water owing to tidal action, storm surge or tsunamis (seismic sea waves). Landforms subject to ocean flooding include beaches, marshes, coastal lowlands and low lying interdune areas. Areas of ocean flooding are mapped by the Federal Emergency Management Agency (FEMA). Ocean flooding includes areas of velocity flooding and associated shallow marine flooding. (Ord. 86-16 § 1(72); Ord. 86-10 § 1(72))

ORS.

"ORS" means Oregon Revised Statutes (state law).

Owner.

"Owner" means any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity having sufficient proprietary interest in a property.

Parcel.

"Parcel" means a single unit of land that is created by a partitioning of land.

Partition.

"Partition" means either an act of partitioning land or an area or tract of land partitioned as defined in this section.

Partition land.

"Partition land" means to divide land into 2 or 3 parcels of land within a calendar year when such an area or tract exists as a unit or contiguous units of land under single ownership at the beginning of the year, but does not include:

1. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property of the creation of cemetery lots;

2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance requirements;

3. The division of land resulting from the recording of a subdivision or condominium plat; or

4. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes; provided, that such road or right-of-way complies with the applicable comprehensive plan requirements and ORS 215.213(2)(p) to (r) and 215.283(2)(p) to (r). However, any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

Partition plat.

"Partition plat" means a final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a partition.

Permit.

"Permit" means discretionary approval of a proposed development of land under ORS 227.215. (Ord. 89-3 § 1)

Person.

"Person" means any individual, firm, partnership, association, cooperative, social, or fraternal organization, corporation, limited liability company, estate, trustee, receiver, syndicate, governmental unit or any other group or combination acting as a unit. (Ord. 95-13 § 1; Ord. 86-16 § 1 (76); Ord. 86-10 § 1(76))

Piling.

"Piling" means the driving of wood, concrete, or steel piling into the bottom in aquatic areas to support piers or docks, structures, moored floating structures, or other purposes. (Ord. 86-16 § 1 (77); Ord. 86-10 § 1(77))

Planning commission.

"Planning commission" or "commission" means the planning commission of the city of Cannon Beach.

Plat.

"Plat" means a final subdivision plat, replat or partition plat.

Portable storage container.

"Portable storage container" means either:

1. Containers no larger in dimension than 8 feet by 8.5 feet by 20 feet and transported to a designated location for storage purposes (typically known as PODS, MODS, etc.).

2. Non self-propelled, fully enclosed trailers that are designed or used to transport goods, materials and equipment (semi-trailers).

"Portable storage container" does not include containers designed or used for the collection and hauling of waste or debris, including, but not limited to, roll-off containers or boxes and bin containers (dumpsters). (Ord. 17-3 § 1)

Property line.

"Property line" means the division line between two units of land.

Protected wetland.

"Protected wetland" means areas in the wetlands overlay zone that have been identified on the city's inventory or on a subsequent detailed delineation as critical wetlands. (Ord. 94-29 § 1)

Public need.

"Public need" means a substantial public benefit which accrues to the community as a whole. (Ord. 86-16 § 1(78); Ord. 86-10 § 1(78))

Quasi-judicial.

"Quasi-judicial" means and land use action which involves the application of adopted comprehensive plan policies of this title to a specific land use application effecting identified parcels of land or property owners.

Regulated activities.

"Regulated activities" means the clearing, grading, excavation, or filling of land. (from 17.62.020)

Reload facility.

"Reload facility" means a facility or site that accepts and reloads only yard debris for transport to another location. (Ord. 98-03 § 2)

Replat.

"Replat" means the act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

Resource capability.

"Resource capability" means a use or activity which 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, recreation and aesthetic values. (Ord. 86-16 § 1 (81); Ord. 86-10 § 1 (81))

Restoration.

"Restoration" means revitalizing, returning, or replacing original attributes and amenities, such as natural biological productivity, aesthetic, and cultural resources, which have been diminished or lost by past alterations, activities, or catastrophic events. (Ord. 86-16 § 1 (82); Ord. 86-10 § 1 (82))

Restoration, active.

"Active restoration" means and involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas. (Ord. 86-16 § 1 (83); Ord. 86-10 § 1 (83))

Restoration, estuarine.

"Estuarine restoration" means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed and may not have been a functioning part of the estuarine system when alteration work began. (Ord. 86-16 § 1 (84); Ord. 86-10 § 1 (84))

Restoration, passive.

"Passive restoration" is the use of natural processes, sequences and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action. (Ord. 86-16 § 1 (85); Ord. 86-10 § 1 (85))

Riparian.

"Riparian" means of, or pertaining to, or situated on the edge of the bank of a river or other body of water. (Ord. 86-16 § 1 (86); Ord. 86-10 § 1 (86))

Riparian vegetation.

"Riparian vegetation" means grasses, shrubs and trees growing along the shoreline adjacent to an aquatic area or a wetland. (Ord. 94-29 § 1)

Rip-rap.

"Rip-rap" is a layer, facing or protective mound of stones placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. (Ord. 86-16 § 1 (87); Ord. 86-10 § 1 (87))

Sale or sell.

"Sale" or "sell" means every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

Scale.

"Scale" means the relationship in size between one building and another. (Ord. 86-16 § 1 (88); Ord. 86-10 § 1 (88))

Sedimentation.

"Sedimentation" means the depositing of solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity. (from 17.62.020)

Shoreland stabilization.

"Shoreland stabilization" means the protection of the banks of tidal or inter-tidal streams, rivers, estuarine waters, and the oceanfront by vegetative or structural means. (Ord. 94-08 § 2; Ord. 86-16 § 1 (89); Ord. 86-10 § 1 (89))

Sign related definitions.

The following definitions pertain to signs:

"Abandoned sign" means a sign pertaining to a use or lot where the message of the sign no longer pertains to a use or activity occurring on the lot.

"Awning sign" means a sign that is placed on a temporary or movable shelter supported entirely from the exterior wall of a building.

"Bench sign" means a sign painted on or attached to a bench.

"Building frontage" means an exterior building wall facing a street, parking lot, or pedestrian walkway.

"Business frontage" means the lineal frontage of a building or portion thereof devoted to a specific business and having an entrance open to the general public.

"Corner sign" means a sign that is placed on a lot so as to be visible from two public streets.

“Freestanding sign” means a sign on a frame, pole or other support structure, which is not attached to any building or permanent structure.

“Incidental sign” means a sign, other than a temporary or lawn sign, which does not require a permit.

“Lawn sign” means a temporary freestanding sign made of rigid materials.

“Permanent sign” means a sign attached to a building, structure or the ground in some manner, having a sign face area of 4 square feet or more and made of materials intended for more than short-term use.

“Projecting sign” means a sign attached to and projecting out from a building face or wall and generally at right angles to the building.

“Readerboard sign” means a sign which can accommodate changeable copy.

“Sandwich board sign” means a sign not supported by a structure in the ground, nor attached to or erected against a structure, and capable of being moved.

“Sign” means any identification, description, illustration, symbol, or device which is affixed upon a building, structure or land and whose primary purpose is to convey a message.

“Site frontage” means the length of the property line parallel to and along each public right-of-way.

“Temporary sign” means a sign, such as a banner, not permanently attached to a building, structure or the ground and posted for no longer than 72 hours, without a special events permit, or authorized under an approved sign permit.

“Undeveloped site” means a lot with no permanent structure which contains a use permitted by the zone in which it is located.

“Wall graphic” means a painting or other graphic art technique which is applied directly to the wall or face of a building or structure.

“Wall sign” means a sign attached to or erected against the wall of a building with the sign face in a parallel plane of the building wall.

“Window sign” means a sign permanently painted on, etched on or affixed to the window pane of a building. (Ord. 21-04 § 3; Ord. 89-29 § 1; Ord. 88-1 § 1; Ord. 86-16 § 1 (90); Ord. 86-10 § 1 (90))

Solar access.

"Solar access" means the exposure of a building to the sun which enables such a building to obtain south-facing surface area exposure, in excess of 50 percent on the date of the winter solstice, adequate for solar space heating or water heating purposes. (Ord. 86-16 § 1 (91); Ord. 86-10 § 1 (92))

Stabilizing vegetation.

"Stabilizing vegetation" means plants that are able to withstand accretion of sand typically occurring in an active or conditionally stable dune area. Examples are: European beachgrass (Ammophila arenaria), American dunegrass/Sea lyme grass (elymus mollis), American beachgrass (Ammophila breviligulata), and Coast willow (Salix hookeriana). (Ord. 94-8 § 3)

Stream.

"Stream" means a body of running water flowing perennially or intermittently in a channel on or below the surface of the ground. Streams do not include ditches of storm drainage channels that are located in a street right-of-way. (Ord. 94-30 § 1)

Street related definitions.

"Cul-de-sac" means a street having one end open to traffic and being terminated by a vehicle turn-around.

"Dead-end street" means a street with only one outlet.

"Right-of-way" means the area between boundary lines of a street.

"Roadway" means the portion of a street right-of-way developed for vehicular traffic.

"Street" means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. A street includes the entire width between the right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley" and other similar designations. (Ord. 86-16 § 1 (92); Ord. 86-10 § 1 (93))

"Street width" means the shortest distance between the lines delineating the right-of-way of the street.

Structure.

"Structure" means any man-made assemblage of materials extending above the surface of the ground and permanently affixed or attached, or where not permanently affixed or attached to

the ground not readily portable, but not including landscape improvements such as rock walls, retaining walls less than 4 feet in height, flag poles, and other minor incidental improvements similar to those described above. (Ord. 08-1 § 13; Ord. 86-16 § 1 (93); Ord. 86-10 § 1 (94))

Subdivide land.

"Subdivide land" means to divide land into 4 or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

Subdivide.

"Subdivider" means an individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.

Subdivision.

"Subdivision" means either an act of subdividing land or an area or a tract of land subdivided as defined in this section.

Subdivision plat.

"Subdivision plat" means a final map or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision. (Ord. 08-02 § 1; Ord. 95-20 § 1)

Tree definitions.

"Dead tree" means that the tree is lifeless.

"Diameter at breast height," abbreviated "DBH," is the measure of the diameter of a tree measured 4.5 feet above the ground level. (Ord. 19-3 § 1)

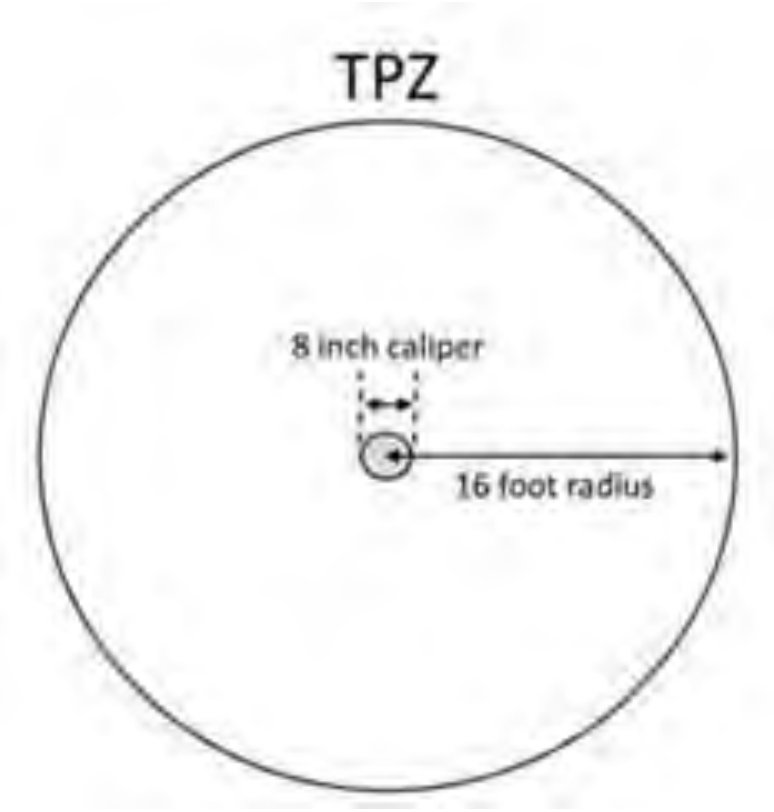
"Immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree removal permit can be obtained. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment.

"Solar energy system" means either: (1) a device employed in the collection of solar radiation for the purpose of heating or cooling a building, the heating of water, or the generation of electricity; or (2) the south facing windows of a dwelling where such windows constitute 50 percent or more of the building's total window area; or (3) the roof of a dwelling which has been designed for the collection of solar energy for space heating purposes.

"Tree" is defined as any woody plant having at least one well-defined stem at least 6 inches in diameter measured at a height of 4.5 feet above the natural grade. All tree measures specified in this chapter shall be measured at a height of 4.5 feet above the natural grade. (from 17.70.012)

"Tree" means any woody plant having at least one well-defined stem at least 6 inches in diameter measured at a height of 4.5 feet above the natural grade. (Ord. 86-16 § 1(96); Ord. 86-10 § 1(97))

"Tree protection zone (TPZ)" is defined as a circle whose center is the center of the subject tree, and whose radius is 2 feet for each inch of trunk diameter measured at 4.5 feet above grade (example: the TPZ for an 8-inch caliper tree DBH would be 16 feet).



(Ord. 19-3 § 1)

"Tree removal" means the cutting down of a live tree or an act which causes a tree to die within a period of two years, including, but not limited to, damage inflicted upon the root system by machinery, storage of materials, and soil compaction; changing the natural grade above the root system or around the trunk; damage inflicted on the tree permitting infection or pest infestation; excessive pruning; paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree. (Ord. 86-16 § 1(97); Ord. 86-10 § 1(98))

"Tree topping" is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 § 1)

"Undeveloped site" means a lot with no permanent structure such as a dwelling or commercial building. (Ord. 98-5 § 1) (from 17.62.020)

Use.

"Use" means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained. (Ord. 86-16 § 1(98); Ord. 86-10 § 1(99))

Vehicle trip.

"Vehicle trip" means a single, one direction vehicle movement to a particular destination. (Ord. 03-8 § 1)

Wetland.

"Wetland" means those areas that are inundated or saturated by surface or groundwater 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. (Ord. 94-29 § 1)

Wetland buffer area.

"Wetland buffer area" means a nonwetland area in the wetlands overlay zone surrounding the protected wetlands. (Ord. 94-29 § 1)

Wetland delineation.

"Wetland delineation" means a site-specific determination of the boundary between uplands and wetlands for a given parcel of land based on field indicators of vegetation, soils, and hydrology. The delineation is to be undertaken in accordance with a method acceptable to the US Army Corps of Engineers and the Oregon Division of State Lands. (Ord. 9429 § 1)

Yard.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title. (Ord. 86-16 § 1(99); Ord. 86-10 § 1(100))

Yard, front.

"Front yard" means a yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of the building. For all lots abutting the ocean shore, the required yard shall be measured from the most easterly of either the lot line, or the vegetation line as established and described according to the Oregon Coordinate System. (Ord. 86-16 § 1(100); Ord. 86-10 § 1(101))

Yard, ocean.

"Ocean yard" means a yard measured horizontally at right angles from the most easterly of Oregon Coordinate Line or the western property line, to the nearest point of a building. An ocean yard may be a front yard, a rear yard, or a side yard. (Ord. 92-11 § 7)

Yard, rear.

"Rear yard" means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building. For all lots abutting the ocean shore, the required yard shall be measured from the most easterly of either the lot line or the vegetation line as established and described according to the Oregon Coordinate System. (Ord. 86-16 § 1(101))

Yard, side.

"Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building. For all lots abutting the ocean shore, the required yard shall be measured from the most easterly of either the lot line, or the vegetation line as established and described according to the Oregon Coordinate System. (Ord. 86-16 § 1(102); Ord. 86-10 § 1(102))

Yard, street side.

"Street side yard" means a yard adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of the building. (Ord. 86-16 § 1(103); Ord. 86-10 § 1(103))

17.04.020 Definitions of Land Use Types

Accessory dwelling.

"Accessory dwelling" means an attached or detached dwelling unit which is located on the same lot on which a single-family dwelling, modular dwelling or manufactured dwelling is located (the primary residence) and which is rented only for periods of 30 days or more. (Ord. 95-8 § 3)

Accessory structure, use.

"Accessory structure" or "accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use. (Ord. 86-16 § 1(2); Ord. 86-10 § 1(2))

Adult day care center.

"Adult day care center" means a facility where care is provided to adults for part of the 24 hours of the day in the home of the person providing the care. (Ord. 89-3 § 1)

Amusement arcade.

"Amusement arcade" means any business location at which more than 4 amusement devices are located. (Ord. 88-12 § 1)

Aquaculture.

"Aquaculture" means the raising, feeding, planting, and harvesting of fish and shellfish, and associated facilities necessary for that use. (Ord. 86-16 § 1(7); Ord. 86-10 § 1(7))

Assisted living facility.

"Assisted living facility" means a building designed for occupancy by elderly or disabled persons living independently of each other and where the facility provides certain defined services on a 24-hour basis. These services can include: meals, housekeeping, scheduled activities, transportation, personal care, and nursing care. A bedroom is the equivalent of a unit for the purpose of calculating the number of assisted living units. (Ord. 08-1 § 14)

Bed and breakfast.

"Bed and breakfast" is an owner occupied dwelling where no more than 2 rooms are available for transient lodging. (Ord. 92-11 § 1; Ord. 86-16 § 1(9); Ord. 86-10 § 1(9))

Boarding, lodging or rooming house.

"Boarding, lodging or rooming house" means a building where lodging with or without meals is provided for compensation for not less than 3 nor more than 15 persons in addition to members of the family occupying such building. (Ord. 86-16 § 1(10); Ord. 86-10 § 1(10))

Business.

"Business" means any commercial or noncommercial activity, service or institution or governmental unit. (Ord. 86-16 § 1(18); Ord. 86-10 § 1(18))

Campground.

"Campground" means an area of land developed without hook-up facilities for recreational use in temporary occupancy by tents or recreational vehicles. (Ord. 06-08 § 1)

Cluster housing.

"Cluster housing" means a residential development which has the following characteristics:

1. House sites or structures which are grouped closer together than the standards of the zoning district;

2. The portion of the site not developed for housing is retained as a tract of open space which is precluded from fixture development; and

3. The total number of dwelling units provided does not exceed the site's net acreage (gross site area minus the area of streets) divided by the minimum lot size of the zoning district.

Community garden.

"Community garden" means a tract of land gardened by a group of individuals for the purpose of cultivating plants, such as vegetables, flowers, and herbs, for their personal use or donation. (Ord. 09-4 § 1)

Condominium.

"Condominium" means a multiple family dwelling, duplex, or single unit, in which the dwelling units are individually owned, with each owner having a recordable deed enabling the unit to be sold, mortgaged, or exchanged independently, under the provisions of Oregon Revised Statutes. (Ord. 86-16 § 1(20); Ord. 86-10 § 1(20))

Cottage industry.

"Cottage industry" means a small business activity which may involve the provision of services or manufacture and sale of products, is carried on by a member of the family living on the premises with no more than 1 other person employed by the family member and is not detrimental to the overall character of the neighborhood. (Ord. 86-16 § 1(21); Ord. 86-10 § 1(21))

Day care center.

"Day care center" means a facility other than the residence of the day care provider, which receives 3 or more children for a part of the 24 hours of the day for the purpose of providing care and board apart from the children's parents or guardians. (Ord. 89-3 § 1)

Dwelling, apartment or multiple-family.

"Apartment or multiple-family dwelling" means a building or portion thereof, designed for occupancy by 3 or more families living independently of each other. (Ord. 86-16 § 1(31); Ord. 86-10 § 1(31))

Dwelling, duplex or two-family.

"Duplex or two-family dwelling" means a building, or buildings, containing 2 dwelling units with or without a common wall or ceiling and where there are no direct interior connecting doorways. (Ord. 03-7 § 1; Ord. 95-8 § 2; Ord. 92-11 § 2; Ord. 90-10 § 1 (Appx. A § 1(3)); Ord. 86-16 § 1(30); Ord. 86-10 § 1(30))

Dwelling, owner-occupied.

"Owner-occupied dwelling" means a dwelling that is the residence of the person that is the owner of the lot on which the dwelling is located, as indicated by the records of the county assessor. Residence is defined to mean the place where a person resides a majority of the time during a year. (Ord. 92-11 § 6)

Dwelling, single-family attached.

"Single-family attached dwelling" means an individually owned single-family attached dwelling, such as a townhouse. (Ord. 86-16 § 1(28); Ord. 86-10 § 1(28))

Dwelling, single-family or one-family.

"Single-family or one-family dwelling" means a detached building, other than a manufactured home or modular home, containing 1 dwelling unit and not including timeshare ownership of that dwelling unit. (Ord. 90-10 § 1 (Appx. A § 1(2)); Ord. 86-16 § 1(29); Ord. 86-10 § 1(29))

Enclosed recreation uses.

"Enclosed recreation uses" means active sports uses covered by a structure to provide year-round activity, including swimming pools, tennis and handball courts and racquetball courts, and no others. (Ord. 86-16 § 1(32); Ord. 86-10 § 1(32))

Family day care center.

"Family day care center" means a day care facility where care is provided in the home of the provider to fewer than 13 children including children of the provider, regardless of full- or part-time status. (Ord. 89-3 § 1)

Formula food restaurant.

"Formula food restaurant" means a restaurant required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, interior or exterior design, or uniforms. (Ord. 86-16 § 1(42); Ord. 86-10 § 1(42))

Group housing.

"Group housing" means a residential type building that contains sleeping rooms for unrelated individuals, but not including a residential facility or residential home. (Ord. 08-1 § 14)

Guest house.

"Guest house" means a structure of no more than 450 square feet of site area used in conjunction with the main building for temporary housing of non-paying visitors and guests and containing no cooking facilities. (Ord. 86-16 § 1(46); Ord. 86-10 § 1(46))

Home occupation.

"Home occupation" means a business which is carried out in a dwelling unit as an accessory use to that dwelling unit. (Ord. 97-6 § 1; Ord. 86-16 § 1(48); Ord. 86-10 § 1(48))

Kennel.

"Kennel" means any lot or premises on which 4 or more dogs, more than 4 months of age, are kept. (Ord. 86-16 § 1(50); Ord. 86-10 § 1(50))

Legislative.

"Legislative" means an amendment to this title or the comprehensive plan or a land use decision that applies to a large number of individuals or properties.

Limited manufacturing.

"Limited manufacturing" means an establishment engaged in the on-site production, processing, assembling, and packaging of finished products by manufacturing methods, which involve only the use of hand tools or light mechanical equipment and where all operations are conducted entirely within an enclosed structure and whose operations impose a negligible impact on the surrounding environment as measured in terms of noise, vibration, smoke, dust, or pollutants. (Ord. 98-17 § 1)

Manufactured dwelling.

"Manufactured dwelling" means:

1. A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962;

2. A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962 and June 16, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

3. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

"Manufactured dwelling" does not mean any building or structure subject to the Structural Specialty Code adopted pursuant to ORS 455.100—455.450. (Ord. 90-10 § 1 (Appx. A § 1(5)); Ord. 89-3 § 1; Ord. 86-16 § 1 (66); Ord. 86-10 § 1 (66))

Manufactured dwelling park.

"Manufactured dwelling park" means any place where 4 or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the city. (Ord. 90-10 § 1 (Appx. A § 1(6)); Ord. 89-3 § 1; Ord. 86-16 § 1 (67); Ord. 86-10 § 1 (67))

Modular housing.

"Modular housing" means a dwelling unit manufactured off-site, built to be used for permanent residential occupancy, to be set on a permanent foundation and conforming to the State of Oregon, 1990 Edition, One and Two Family Dwelling Code. (Ord. 90-11 § 1 (Appx. A § 1(7)); Ord. 86-16 § 1 (68); Ord. 86-10 § 1 (68))

Motel.

"Motel or other tourist accommodation" means a structure or part of a structure, containing motel rental units, occupied, or designed for occupancy by transients for lodging or sleeping and including the terms "hotel" and "inn," but shall not include the term "bed and breakfast establishment" or the transient occupancy of a dwelling unit regulated by this chapter. (Ord. 92-1 § 2; Ord. 87-5 § 1; Ord. 86-16 § 1 (69); Ord. 86-10 § 1 (69); Ord. 85-1 § 1)

Motel rental unit.

"Motel rental unit" means 1 bathroom and not more than 3 bedrooms. A "bathroom" is defined as consisting, at a minimum, of a toilet. (Ord. 90-10 § 1 (Appx. A § 1 (8)); Ord. 86-16 § 1 (70); Ord. 86-10 § 1(70))

Office.

"Office" means premises where services such as clerical, professional, or medical are provided. (Ord. 08-1 § 14)

Park trailer.

"Park trailer" means a vehicle built on a single chassis, mounted on wheels, designed to provide seasonal or temporary living quarters which may be connected to utilities for operation of installed fixtures and appliances, and of such a construction as to permit setup by persons without special skills using hand tools which may include lifting, pulling and supporting devices and a gross trailer area not exceeding 400 square feet when in the setup mode. Such a vehicle shall be referred to and identified by the manufacturer or converter as a recreational vehicle. (Ord. 91-3 § 1)

Outdoor merchandising.

"Outdoor merchandising" means the sale or display for sale of merchandise or services outside of an enclosed building space; including sales which are transacted through an open window. The term "merchandise" does not include benches and other types of seating which are provided for the convenience of the general public. (Ord. 97-2 § 1; Ord. 86-16 § 1(73); Ord. 86-10 § 1(73))

Private parking lot.

"Private parking lot" means an area designed for the off-street parking of vehicles where an hourly or daily fee is charged for the use of the parking spaces and where those parking spaces are not provided to satisfy off-street parking requirements of a permitted or conditional use. A private parking lot does not include an area designed for the off-street parking of vehicles where those parking spaces are made available through monthly or yearly lease arrangements. (Ord. 97-13 § 1)

Quasi-judicial.

"Quasi-judicial" means a land use action which involves the application of adopted comprehensive plan policies and the provisions of this title to a specific land use application effecting identified parcels of land or property owners.

Recreational vehicle.

"Recreational vehicle" means a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a gross floor space of less than 400 square feet. "Recreational vehicle" includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversion, tent trailers, travel trailers, truck campers, and any vehicle converted for use as a recreational vehicle. The unit shall be identified as a recreational vehicle by the manufacturer. (Ord. 90-10 § 1 (Appx. A § 1(9)); Ord. 86-16 § 1(79); Ord. 86-10 § 1 (79))

Recreation vehicle park.

"Recreation vehicle park" means an area licensed by the state for the parking of recreational vehicles. (Ord. 86-16 § 1 (80); Ord. 86-10 § 1(80))

Recycling facility.

"Recycling facility" means a facility or site where separated recyclable materials are collected for transport to another location. The term "recyclable materials" does not include materials used to produce compost, such as yard debris. (Ord. 98-03 § 1)

Residential facility.

"Residential facility" means a facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with training or treatment or a combination thereof for 6 to 15 individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements need not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (Ord. 90-10 § 1 (Appx. A § 1(11)); Ord. 89-3 § 1)

Residential home.

"Residential home" means a home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with training or treatment or a combination thereof for 5 or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (Ord. 90-10 § 1 (Appx. A § 1(12)); Ord. 89-3 § 1)

Retail.

"Retail" means premises in which goods or commodities are sold, rented, or leased directly to the final consumer. (Ord. 08-1 § 14)

Short-term rental definitions.

"Five-year unlimited permit" allows the property owner to rent the property any and all days of the year. This permit expires and cannot be renewed at the end of 5 years. The 5-year period begins on the date that the permit is issued.

"Fourteen-day permit" allows the property owner to rent the property to one tenancy group once in a 14-day period of time.

"Lifetime unlimited permit" allows the property owner to rent the property any and all days of the year. Upon the sale or transfer (see definition in this section), the lifetime unlimited permit is void.

"Persons," for the purposes of this chapter, means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his or her property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a rental permit.

"Professional management", for purposes of this chapter, means management of a short-term rental unit by a licensed property management company holding a Cannon Beach business license, engaged primarily in the business of managing rental property, and with a physical office in Cannon Beach or within the distances specified in Section 17.84.070(A).

"Sale or transfer," for purposes of this chapter, means any change of ownership during the lifetime of the permit holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse, or transfers on the owner's death to a trust which benefits only a spouse for the spouse's lifetime, or lifetime transfers between spouses. A permit holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to this section so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the short-term rental permit held, in all or part, by the transferor shall be void. (Ord. 19-5 § 1; Ord. 17-5 § 1)

Timeshare condominium.

"Timeshare condominium" means a condominium in which units are individually owned by a family or group of persons for a variable amount of time during the year, and in which part or all of the units may be available to transients for rent or on an exchange basis. For the purposes of this title, timeshare condominium or unit shall be considered a motel. (Ord. 86-16 § 1 (94); Ord. 86-10 § 1 (95))

Transient merchant.

"Transient merchant" means a person who travels from place to place, either carrying his or her goods with him or her, selling and delivering at the same time, or not carrying his goods but taking orders for future delivery. Transient merchant includes those who occupy a temporary fixed location, selling and delivering from stock on hand, doing business in much the same manner as a permanent business, with the principal difference being the temporary nature of the business location. (Ord. 86-16 § 1(95); Ord. 86-10 § 1(96))

Transient rental occupancy.

"Transient rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of less than 14 days, counting portions of days as full days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession, or use of real property. (Ord. 04-9A § 4; Ord. 92-1 § 3)

Vacation home rental occupancy.

"Vacation home rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of time between 14 and 30 days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession, or use of real property. (Ord. 04-9A § 5)

Wireless communication facility definitions.

"Antenna" means a specific device used to receive or capture incoming and/or to transmit outgoing radio frequency signals, microwave signals and/or communications energy transmitted from, or to be received by, other antennas. Antennas include whip (omni-directional antenna), panel (directional antenna), disc (parabolic antenna) or similar devices.

"Antenna array" means one or more antennas as defined in this chapter. The antenna array does not include the support structure.

"Collocation" means the use of a common WCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology.

"Equipment facility" means any adjacent structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals, and other similar structures.

"Height" means the distance measured from ground level to the highest point on the WCF support structure, including the antenna or antenna array.

"Micro antenna array" means an antenna array which consists of antennas equal to or less than 6 feet in height and with a total area of not more than 6 square feet.

"Mini antenna array" means an antenna array which consists of antennas equal to or less than 10 feet in height and with a total area of not more than 50 square feet.

"Monopole" means a structure designed and constructed specifically to support an antenna array consisting of a single vertical metal, concrete or wooden pole, pipe, tube, or cylindrical structure which is driven into the ground or mounted upon or attached to a foundation.

"Support structure" means a structure that supports an antenna or antenna array. A support structure includes both an existing building or structure, or a structure designed and constructed specifically to support an antenna array, such as a monopole.

"Wireless communications" means any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed.

"Wireless communication facility (WCF)" means any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, an equipment facility, and a support structure. (Ord. 02-1 § 1)

Wood waste processing.

"Wood waste processing" means a site where woody material is collected for processing and subsequent storage or transport to another location. The term "woody material" includes branches, limbs, bark, stumps, and similar material, but does not include lumber. The term "processing" is limited to chipping and grinding and does not include composting, where composting is defined as a managed process of controlled biological decomposition. (Ord. 98-8 § 1)

Article II – Procedures

17.08 INTRODUCTION

This article establishes the procedures and requirements to be applied in reviewing and acting on a development proposal.

17.10 PLANNING PARTICIPANTS

The following are the major participants in the planning process in the city. The roles of these participants are generally outlined in this section. The roles and responsibilities may be further defined by the city council through ordinance or resolution.

17.10.010 City Council.

A. The city council is the policy and ultimate decision-making body for the city except as otherwise provided by the comprehensive Plan, the Constitution of the State of Oregon, Oregon State Statutes, or Chapter IV of the Cannon Beach Charter. The city council retains and exercises all the powers granted to the city except as provided herein, by the comprehensive plan, or by action of the city council through either the adoption of an ordinance or resolution.

B. The city council may interpret this title where ambiguity exists as to the meaning of specific provisions. This interpretation, when made, shall be used to guide staff and the approval authority in applying provisions of this title to specific situations. The city council by ordinance or resolution shall develop procedures for implementing this section.

17.10.020 Planning Commission.

A. The planning commission shall operate as provided in Chapter 2.12 of the Cannon Beach Municipal Code.

B. The planning commission shall advise the city council on legislative planning and development issues as provided in Section 2.12.020 of the Cannon Beach Municipal Code.

C. The planning commission shall serve as the approval authority as provided in this title.

17.10.030 Design Review Board.

A. The design review board shall operate as provided in Chapter 2.10 of the Cannon Beach Municipal Code.

B. The design review board shall advise the city council on legislative planning and development issues as provided in Section 2.10.020 of the Cannon Beach Municipal Code.

C. The design review board shall serve as the approval authority as provided in this title.

17.10.040 City Manager.

A. The city manager or manager shall fulfill the duties as provided in Section 22 of the Cannon Beach Charter.

B. For the administration of this title, the city manager may designate other city employees to fulfill the duties of the city manager, including, but not limited to the community development director, public works director, and building official.

17.10.050 Community Development Director.

The community development director shall be responsible for the administration of planning and development activities within the city, as directed by the city manager. The director's responsibilities may include but are not limited to the following activities:

A. Schedule and assign cases for review and hearings;

B. Conduct all pertinent correspondence of the hearings bodies;

C. Give notice as required by this title;

D. Maintain agendas and minutes of all planning commission and design review board meetings;

E. Compile and maintain all necessary records, files, and indexes for planning and development activities;

F. Provide professional expertise, staff assistance and act as secretary to the planning commission and design review board, keeping an accurate, permanent, and complete record of all proceedings;

G. Provide professional expertise and staff assistance to the city manager and city council as necessary regarding planning matters;

H. Coordinate planning functions with other city departments and other agencies as is necessary to carry out planning duties;

I. Provide assistance and information to the public on land use activities;

J. The director shall serve as the approval authority as provided in this title or as designated by the city manager; and

K. Other activities as specified by the city council.

17.12 DEVELOPMENT PERMIT

17.12.010 Development permit required.

A development permit is required for:

A. The construction, enlargement, alteration, repair, moving, improvement, removal, conversion or demolition of any structure or building which requires a building permit

pursuant to either the State of Oregon, One and Two Family Dwelling Code, or the State of Oregon, Structural Specialty Code. (For the purpose of this section, these are referred to as Type I action); or

B. An activity, development, or structure specifically listed in this title as requiring a development permit.

C. In the case of a structure or building requiring a building permit, the development permit may be part of the building permit.

17.12.020 Exclusions from development permit requirement.

The following activities are permitted in each district but are excluded from the requirement of obtaining a development permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions, and other provisions of this title.

A. Landscaping or other treatment or use of the land surface outside any flood plain, wetland and drainageways and not involving a structure or paved parking lot.

B. Any change or repair to a building or other structure that does not alter or expand the use thereof or require a building permit.

C. An emergency measure necessary for immediate safety of persons or protection of property, provided however, that an application for a development permit shall be promptly filed if the measure otherwise would require such a permit but for the emergency.

D. The establishment, construction, maintenance, preservation or termination of public roads, transportation facilities and other public facilities including sewer and water lines, electrical and gas distribution lines, and telephone and television transmission lines that are substantially in the public right-of-way directly serving development or as shown on the comprehensive plan or adopted Public Facility Plan, together with piping and culverts, accessory drainage systems such as catch basins, and necessary accessory structure and easements. Notwithstanding this exemption, said facilities within sensitive lands, shall obtain a development permit as provided in this title. This permit shall be approved if the applicant demonstrates compliance with the applicable approval standards.

E. Construction, maintenance, or demolition of an accessory structure not requiring a building permit.

F. The following excavations or fills, unless a development permit is required by the environmental resources and hazards provisions in Article V:

1. Excavations below finish grade for basements and footings of a building, retaining wall or other structure authorized by a valid development permit;

2. Excavations for wells, tunnels, or utilities;

3. Excavations or fills for public projects, conducted by or under contract of the city;

4. Exploratory excavations affecting or disturbing areas less than 5,000 square feet in size, under the direction of soil engineers or engineering geologists;

5. An excavation which is less than 2 feet in depth, or which does not create a cut slope greater than 5 feet in height and steeper than 1.5 horizontal to 1 vertical;

6. A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than 5 horizontal to 1 vertical, or, a fill less than 3 feet in depth, not intended to support structures, which does not exceed 150 cubic yards on any one lot and does not obstruct a drainage course;

7. Underground pipes and conduits; and

8. Above ground electrical transmission, distribution, communication, and signal lines on a single pole system where a single pole system is defined as above ground electrical lines and their supporting concrete, wood, or metal poles, but does not include self-supporting steel lattice-type structures.

G. Continued use of a valid nonconforming use or exercise of a vested right, except that any change, alteration, restoration, or replacement of a nonconforming use shall require a development permit as provided in this title.

17.12.030 Development permit application.

A. Application. A property owner or their designated representative may initiate a request for a development permit or building permit by filing an application with the city using forms provided by the city.

B. Consolidated application procedure. Where a proposed development requires more than one development permit, or a change in zone designation from the city, the applicant may request that the city consider all necessary permit requests in a consolidated manner. If the applicant requests that the city consolidate his or her permit review, all necessary public hearings before the planning commission shall be held on the same date. (Ord. 94-8 § 22; Ord. 86-10 § 16; Ord. 79-4 § 1 (11.035))

C. Filing fee. It shall be the responsibility of the applicant to pay for the full cost of processing permit applications. Minimum fees shall be set by resolution by the city council, and the applicant shall pay the minimum fee to the city upon the filing of an application. Such fees shall not be refundable. The applicant shall be billed for costs incurred over and above the minimum permit fee at the conclusion of city action of the permit request. (Ord. 94-8 § 22; Ord. 90-10 § 1 (Appx. A § 70); Ord. 90-3 § 20; Ord. 79-4 § 1 (11.040))

D. Building permit issuance. Before issuing a permit for the construction, reconstruction, or alteration of a structure, it will be the responsibility of the building official to make sure that provisions of this title will not be violated. (Ord. 94-8 § 22; Ord. 79-4 § 1 (11.020))

17.12.040 Development permit expiration.

A. A development permit shall be void 1 year after the date of approval unless the approval authority granted an extended expiration date not to exceed 2 years, a building permit has been obtained, development has commenced as provided in Section 17.12.050., or an extension is approved as provided in Section 17.14.040 B.

B. If an extension is desired, the holder of the development permit must file an application for an extension prior to expiration of the development permit. Unless approved, an extension request does not extend the expiration date. Extension requests shall be processed as a Type I action. An extension may be granted for a maximum of 2 years from the original date of expiration.

17.12.050 When development has commenced.

Development authorized by a development permit has commenced when:

A. The necessary permits including, but not limited to, building permit or grading permit have been issued; and

B. Physical alteration of the land or structures has begun in a manner consistent with the development permit approval, including but not limited to structures, grading, installation of utilities, and required off-site improvements.

17.12.060 Compliance with conditions of approval.

Compliance with conditions imposed on the development permit, and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this title.

17.12.070 Revocation of development permit.

A. Revocation shall be processed as a Type I action.

B. A development permit may be revoked upon a finding of:

1. Noncompliance with the standards or conditions set forth in this title, or any special conditions imposed upon the permit;

2. Intentional fraud, misrepresentation or deceit upon the part of the applicant as to an issue material to the issuance of the development permit;

3. Abandonment or discontinuance as determined by failure to make reasonable progress toward completion of a commenced development for a continuous period of one year. Bona fide good faith efforts to market the development shall not constitute abandonment or discontinuance; or

4. A change in this title, the comprehensive plan, or state law which would make the approved development unlawful or not permitted, prior to the development obtaining a vested right or nonconforming use status.

C. Revocation shall be effective immediately upon the manager providing written notice thereof to the holder of the permit. Unless provided otherwise by the manager, revocation terminates the ability to continue the use. Continued use without a current valid development permit shall be a violation of this title.

D. The holder of a revoked permit may reapply for a new permit at any time as an entirely new application.

17.14 TYPES OF DEVELOPMENT PROCEDURE

17.14.010 Classification of land use actions.

All land use actions shall be classified as one of the following unless state law mandates different or additional procedures for particular land use actions or categories of land use actions.

17.14.020 Type I procedure.

A. Type I development actions involve permitted uses or development governed by clear and objective review criteria. Type I actions do not encompass discretionary land use decisions. Impacts have been recognized by the development and public facility standards.

B. The following are Type I actions:

1. Those identified in this title as Type I actions; and

2. Structures, improvements, or uses proposed to implement an approved Type II or Type III development application, provided:

a. It complies with all conditions of approval; and

b. The project complies with the minimums established by this title or as modified by the conditions of approval.

C. If the manager determines that the proposed development does not conform, with the applicable Type II or Type III decision, or requires submittal of a new Type II or Type III application, it shall be processed as provided in this title. The manager's determination shall not be subject to appeal.

D. Type I development actions shall be decided by the manager without public notice or hearing. Notice of a decision shall be provided to the applicant or the applicant's representative and owners of the subject property. The decision may be appealed by the applicant as provided in Chapter 17.18. The appeal shall be reviewed as a Type III hearing except that only the applicant and owners of the subject property shall be entitled to notice.

17.14.030 Type II procedure.

A. Type II land use actions are presumed to be appropriate in the relevant zoning district. They generally involve uses or development for which review criteria are reasonably objective, requiring only limited discretion. Impacts on nearby properties may be associated with these uses, which may necessitate imposition of specific conditions of approval to minimize those impacts or ensure compliance with this title.

B. Type II actions are identified as such in this title.

C. Type II development actions shall be decided by the manager without a public hearing. The decision shall be by signed written order. The order shall comply with Sections 17.16.090 B. and C.

D. The notice of the decision shall be provided pursuant to Sections 17.16.090 A., B., and C. The decision may be appealed as provided in Chapter 17.18. The appeal shall be reviewed as a Type III hearing.

17.14.040 Type III procedure.

A. Type III actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgment when applying the development criteria contained in this title. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this title and the comprehensive plan.

B. The following are Type III actions:

1. Those identified in this title as Type III;

2. Those not identified or otherwise classified, which are determined by the manager to be substantially similar to the uses or development designated as Type III, require the exercise of significant discretion or judgment, involve complex development issues, or which likely will have significant impact. The determination may be challenged on appeal of the decision on the proposed development but is not subject to appeal on its own; and

3. Quasi-judicial plan amendments.

C. Type III actions shall be decided by the planning commission or design review board after a public hearing, except that the city council shall decide Type III actions for quasi-judicial plan amendments.

D. The notice of the decision shall be provided pursuant to Section 17.16.090. The decision may be appealed as provided in Chapter 17.18. The appeal shall be reviewed as a Type III hearing before the city council.

17.14.050 Type IV procedure.

A. Type IV actions are legislative. They involve the creation, broad scale implementation or revision of public policy. These include amendments to the text of the comprehensive plan or this title. Large scale changes in planning and development maps also may be

characterized as legislative where a larger number of property owners are directly affected.

B. Type IV actions are made through adoption of city ordinances.

C. Type IV actions shall be decided by the city after a public hearing. The city council may also request that the planning commission hold a public hearing in advance of the city council hearing to consider the proposal, public testimony, and provide a recommendation.

D. Decisions on Type IV actions may be appealed pursuant to Chapter 17.18.

17.14.060 Determination of proper procedure type.

A. The manager shall determine whether an application or decision is a Type I, II, or III action in accordance with the standards set forth above. Questions as to the appropriate procedure shall be resolved in favor of the type providing the greatest notice and opportunity to participate. The decision of the manager is subject to appeal on its own, or it may be alleged as an error in an appeal of the decision on the proposed development. Upon appeal of the decision on the merits of a development action not specifically classified in this title, the planning commission or city council may determine, based on the standards set forth in Section 17.14.020 through 17.14.040, that a different procedure type should have been used and direct that the proposed development action be processed accordingly.

B. The determination as to whether a matter is subject to a Type IV procedure shall be made by the manager in accordance with the standards of this title. Concurrent actions involving legislative and non-legislative actions shall be separated for proper processing. The decision of the manager is not subject to appeal on its own but may be alleged as an error on appeal of the decision on the proposed development. Upon appeal of the final decision on the merits of the action, the planning commission or city council may determine, based on the standards set forth in Sections 17.14.020 through 17.14.050, that a different procedure type should have been used, and direct that the proposed development action be processed accordingly.

C. An applicant may choose to have the proposal processed under a procedure type (except Type IV), which provides greater notice and opportunity to participate than would otherwise be required.

D. At no additional cost to the applicant, the manager may choose to process a Type II application under the Type III procedure to provide greater notice and opportunity to participate than would otherwise be required, or in order to comply with the time requirements for reviewing development applications in Section 17.16.040.

17.16 PROCESSING DEVELOPMENT APPLICATIONS

17.16.010 Application.

A. Applications for development actions shall be submitted in accordance with the format and upon such forms as may be established by the city manager.

B. A complete application is one which contains the information required to address the relevant standards of the comprehensive plan and this title. It shall consist of the following:

1. A completed original application form;

2. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property;

3. A legal description and current Clatsop County tax map(s) showing the subject property(ies) and all properties within 250 feet of the subject property;

4. Relevant public facilities information;

5. Additional information required by other provisions of this title and the comprehensive plan;

6. Additional information directly related to the applicable standards of this title or the comprehensive plan as deemed essential by the manager to evaluate adequately the specific application for compliance with those criteria and standards; and

7. The applicable fees adopted by the city council are hereby incorporated by reference as the fees herein. These fees may be amended by resolution and order by the council.

17.16.020 Pre-application conference.

A. No application for a Type II or Type III action shall be received by the city manager unless the applicant or the applicant's representative has:

1. Attended a pre-application conference with the city manager; or

2. Signed a waiver, on a written statement prepared by the city manager, waiving the pre-application conference requirement.

B. The purpose of the pre-application conference is to acquaint the applicant or representative with the requirements of this title, the comprehensive plan, and other relevant criteria. It is designed to assist the applicant. The applicant assumes the risk for delays or other problems caused by failure to attend. It is impossible, however, for the conference to be an exhaustive review of all potential issues and failure of the city manager to provide any information required by this title shall not constitute a waiver of the policies, standards, or criteria relevant to the application.

C. Pre-application conferences shall be scheduled by the city manager at the earliest reasonable time.

D. As soon as practicable, the manager shall provide the applicant or representative with a written summary of the meeting.

E. Information given by the city manager and/or staff to the applicant during the preapplication conference is valid for no longer than one year. Another preapplication conference is required if an application is submitted more than one year after the preapplication conference is held.

17.16.030 Application submittal and acceptance.

A. Applications shall be submitted to the manager in the number specified on the application form. The manager, however, may waive copies of specific documents, maps or exhibits upon a determination that the difficulty or burden of copying outweighs the usefulness of the copies.

B. No application shall be received by the city for determination of completeness without the appropriate application fee.

C. The date of submission shall be recorded. Within 30 days the manager shall determine whether the application is complete. The manager shall notify the applicant when the application is accepted as complete or rejected as incomplete if deficiencies are found. Resubmitted applications shall be subject to another 30-day completeness check.

D. Upon determination of completeness, applications shall be accepted immediately. The date of acceptance shall be recorded. The manager shall notify the applicant that the application is complete. Unless otherwise directed by the city council, applications shall be processed in the order accepted.

E. The decision of the manager as to completeness of an application, including any required engineering, traffic, or other such studies, shall be based on the criteria for completeness, adequacy and methodology set forth in this title or by resolution and order of the council. Rejection by the manager for incompleteness shall be based solely on failure to address the relevant standards or supply required information and shall not be based on differences of opinion as to quality or accuracy. Acceptance indicates only that the application is ready for review.

F. Upon rejection for incompleteness, the applicant may object in writing to any alleged deficiencies and direct that the application be processed. During review, the applicant may submit additional information relating to the alleged deficiencies, but the manager is not obligated to review such information. The staff report may recommend denial or deferral due to insufficient or inaccurate information.

G. The approval authority shall approve or approve with conditions an application which the manager has determined to be incomplete only if it determines that sufficient, accurate information has been submitted and adequately reviewed by the approval authority with an opportunity for review by affected parties or that conditions can be imposed to ensure proper review at the appropriate time. In all other cases the approval authority shall defer or deny.

H. All documents or evidence relied upon by the applicant shall be submitted to the city and made available to the public at least 20 days before a public hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall be subject to the limitations of Section 17.16.040.

I. If additional documents or evidence is provided in opposition to the application, the applicant shall be entitled to a continuance of the hearing.

17.16.040 Final action on applications.

The city shall take final action on an application for a permit, limited land use decision, or zone change within 120 days of the receipt of a complete application. The 120-day period does not apply to an amendment to the comprehensive plan or zoning ordinance, or the adoption of a new land use regulation. At the request of the applicant, the 120-day period may be extended for a reasonable period of time. (Ord. 96-1 § 7; Ord. 89-3 § 1; Ord. 86-10 § 15; Ord. 79-4 § 1 (10.092))

17.16.050 Staff report.

A. No decision regarding a Type II, Type III, or Type IV action shall be made without a staff report. This report shall be provided to the applicant. All others may obtain a copy upon request and payment of a reasonable fee to cover the cost of reproduction, overhead, and mailing.

B. A staff report shall be available no later than 7 days before a public hearing regarding a Type III or Type IV application or any hearing on appeal. A staff report shall be mailed approximately 7 days prior to the public hearings to the applicant and interested parties who request it. Mailing the report does not guarantee sufficient time prior to the public hearing to respond to the conditions of approval. Obtaining a copy of the staff report in person at the city best assures ample time for review and comment at the public hearing.

C. Notwithstanding the above, the staff report may be amended as necessary to address issues or information not reasonably known at the time the report is due.

D. If staff submits additional evidence or an amended staff report in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall be subject to the limitations of Section 17.16.040.

E. If staff submits additional evidence or an amended staff report in opposition to the application, the applicant shall be entitled to a continuance of the hearing.

17.16.060 Notice of pending development actions.

A. General provisions.

1. All public notices for pending development actions shall be deemed to have been provided or received upon the date the notice is deposited in the mail or personally delivered, whichever occurs first.

2. The records of the Clatsop County Department of Assessment and Taxation shall be used for determining the property owner of record. Persons not on file with that department at the time an application is filed need not be notified. Failure to actually receive notice shall not invalidate an action if a good faith attempt was made to notify all persons entitled to notice. A sworn certificate of mailing issued by the person conducting the mailing shall be conclusive evidence of a good faith attempt to contact all persons listed in the certificate. Mortgagees, lien holders, vendors and sellers receiving notice shall promptly forward a copy by mail to the purchaser.
3. For notice purposes, the boundary of the subject property shall be the property, which is the subject of the application, together with all contiguous property under identical ownership.

B. Type I and Type II actions do not require public notice of review.

C. Type III actions.

1. Notice of public hearing shall be mailed, published, and posted at least 20 days before the hearing.
2. The notice of public hearing shall be mailed to:
   a. The applicant or representative; and
   b. All property owners of record within 250 feet of the subject property.
3. The notice of public hearing shall contain:
   a. The name of the property owner and applicant, if different from the property owner, and the city's case file number;
   b. The date, time, place of the hearing and who is holding the public hearing;
   c. A description of the location of the property for which a permit or other action is pending, including the street address, and a subdivision lot and block designation, or the tax map designation of the county assessor;
   d. A concise description of the proposed action;
   e. A listing of the applicable criteria known to apply to the application at issue;
   f. A statement that a failure by the applicant or other parties to the hearing to raise an issue at a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue, precludes appeal based on that issue;
   g. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;
   h. A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;

i. The name of a city representative to contact and the telephone number where additional information may be obtained; and

j. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings. (Ord. 96-1 § 1; Ord. 90-10 § 1 (Appx. A § 52); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.030))

D. Type IV actions

1. Notice shall be given for Type IV actions by publication in a newspaper of general circulation in the city.

2. Published notice shall contain the information required in Section 17.16.060 C. 3.

E. Notice of appeal of a Type II or Type III decision shall be provided in the same manner as required for Type III actions as required in Section 17.16.060 C. 3. Notice of decision on appeal shall be provided to all parties of record.

17.16.070 Public hearing procedure and requirements

Public hearings conducted under this title shall comply with the following procedures and requirements:

A. Procedural rights. The following procedural entitlements shall be provided at the public hearing:

1. An impartial review as free from potential conflicts of interest and prehearing ex parte contacts as is reasonably possible.

a. No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

i. Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment;

ii. The member owns property within the area entitled to receive notice of the public hearing;

iii. The member has a direct private interest in the proposal; or

iv. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

b. Disqualification due to a conflict of interest or personal bias may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion.

c. Hearing body members shall reveal any prehearing or ex parte contacts regarding any matter at the commencement of the first public hearing following the pre-hearing or ex parte contact where action will be considered or taken on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations. Disqualifications due to ex parte contact may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion.

d. A party to a hearing may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, prejudgment, personal interest, ex parte contact, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion.

e. A party to a hearing may rebut the substance of the communication that formed the basis for an ex parte contact declared by a member of the hearing body.

f. No officer or employee of the city who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest.

2. A reasonable opportunity for those persons potentially affected by the proposal to present evidence.

3. A reasonable opportunity for rebuttal of new material. (Ord. 90-10 § 1 (Appx. A § 58); Ord. 89-3 § 1; Ord. 79-4 § l (10.061))

B. Rights of disqualified member of hearing body. A disqualified member of the hearing body shall have the following rights:

1. An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body and making full disclosure of his or her status and position at the time of addressing the hearing body.

2. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received. (Ord. 90-10 § 1 (Appx. A § 59); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.062))

C. Burden and nature of proof. Except for a determination of the applicability of chapter provisions, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this title, especially the specific criteria set forth for the particular type of decision under consideration. (Ord. 90-10 § 1 (Appx. A § 60); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.063))

D. Nature of proceedings. An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate:

1. Before receiving information on the issue, the following shall be addressed:

a. Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.

b. Any abstentions or disqualifications, based on conflicts of interest, personal bias, or ex parte contacts, shall be determined.

c. A statement by the person presiding that:

i. Describes the applicable substantive criteria against which the application will be reviewed;

ii. Testimony and evidence must be directed toward the criteria described in paragraph (a) above or other criteria in the comprehensive plan or land use regulations which a person believes to apply to the land use action;

iii. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and parties to the hearing an opportunity to respond to the issue precludes an appeal based on that issue;

iv. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The request may be granted to continuing the public hearing or leaving the record open for additional written evidence or testimony; and

v. Describes the review and appeal process provided for by this chapter.

2. Presentations and evidence.

a. The presiding officer shall preserve order at the public hearing and shall decide questions of order subject to a majority vote.

b. The presiding officer may set reasonable time limits for oral presentations. The presiding officer may determine not to receive cumulative, repetitious, immaterial, or derogatory testimony.

c. Evidence shall be received from the staff and from proponents and opponents:

   i. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Erroneous evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party to the hearing.

   ii. Members of the hearing body may take official notice of judicially cognizable facts of a general, technical, or scientific nature within their specialized knowledge. Such notice shall be stated and may be rebutted.

   iii. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

d. The hearing body may view the area in dispute with notification to the parties to the hearing, of the time, manner, and circumstances of such a visit.

e. The hearing body may recess a hearing to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. The time and date when the hearing is to resume shall be announced.

f. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The request shall be granted by continuing the public hearing or leaving the record open for additional written evidence or testimony.

   i. If the hearing is continued, the hearing shall be continued to a date, time, and place certain which is at least seven days from the date of the initial hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to the new written evidence.

   ii. If the record is held open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a

written request with the city for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearing shall be reopened, and any person may raise new issues which relate to the evidence, testimony or criteria which apply to the matter.

iii. Unless waived by the applicant, the applicant shall have at least 7 days after the record is closed to all parties to submit final written arguments in support of the application. This final submittal shall be considered part of the record but shall not include any new evidence. For the purposes of this section, "evidence" means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. For the purposes of this section "argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponents to a decision; "argument" does not include facts.

iv. A continuance or extension granted pursuant to this section shall be subject to the time limitations of Section 17.16.040 unless the continuance or extension is requested or agreed to by the applicant.

g. When the hearing has been closed, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff, if opportunity for rebuttal is provided. No testimony shall be accepted after the close of the public hearing unless the hearing provides an opportunity for review and rebuttal of that testimony.

h. At the conclusion of the public hearing, a participant in the public hearing may request that the record remain open for at least 7 days for the purpose of submitting additional evidence. Such a request may only be made at the first de novo hearing held in conjunction with a permit application or zoning ordinance text or map amendment. Whenever the record is supplemented in this manner any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue. This extension of time shall not be counted as part of the 120-day limit in Section 17.16.040.

17.16.090 Decision

A. After review of all evidence that is submitted to the record for a Type I through Type IV action, the approval authority may:

1. Approve or deny all or part of the application;
2. Approve all or part with modifications or conditions of approval;
3. Reverse or remand a decision that is on appeal; or

4. Dismiss without prejudice due to procedural error or remand to correct a procedural error.

B. The order shall incorporate finding of facts and conclusions that include:

1. A statement of the applicable criteria and standards against which the proposal was tested;
2. A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision; and
3. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.

C. The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period unless an appeal has been filed. (Ord. 90-10 § 1 (Appx. A § 64); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.070))

D. Record of the proceedings shall be provided. The secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.

1. Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.
2. The hearing body shall, where practicable, retain as part of the hearing records each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
3. The findings shall be included in the record.
4. A person shall have access to the record of proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense. (Ord. 89-3 § 1; Ord. 79-4 § 1 (10.071))

E. Notice of a Type I decision shall be provided to the applicant.

F. Notice of a Type II decision shall be provided to the applicant and to all property owners of record within 100 feet of the subject property. The notice of decision shall include:

1. A brief description of the decision reached;
2. A statement that the decision may be appealed by filing an appeal within 14 days of the date that the final order was signed;
3. A description of the requirements for an appeal, including the type of appeal that may be requested; and
4. A statement that the complete case, including the final order is available for review at the city.

G. Notice of a decision by a hearing body shall be provided to all parties to the hearing within 5 working days of the date that the final order was signed. The notice of the decision shall include:

1. A brief description of the decision reached;
2. A statement that the decision may be appealed by filing an appeal within 14 days of the date that the final order was signed;
3. A description of the requirements for an appeal, including the type of appeal that may be requested;
4. A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing; and
5. A statement that the complete case, including the final order is available for review at the city. (Ord. 17-3 § 1; Ord. 89-3 § 1; Ord. 79-4 § 1 (10.072))

H. Date of final decision shall be established.

1. Decisions issued for Type I, Type II, and Type III development applications shall be deemed final and effective upon expiration of the appeal period if no petition for review is filed within that time. Once final and effective, the decision cannot be appealed.
2. Decisions of the council on an application shall be deemed final as follows:

    a. If no petition for reconsideration is timely filed, the decision shall be deemed final on the date notice of the decision was provided to the parties.

    b. If a petition for reconsideration is filed and denied, the decision shall be deemed final on the date notice of the denial of reconsideration is provided to the parties.

    c. If a petition is filed and reconsideration granted, the decision shall be deemed final on the date notice of the decision on the development, as reconsidered, is provided.

I. Limitations on reapplications. No application of a property owner or local resident for an amendment to the text of the ordinance codified in this title or to the zone boundary shall be considered by the planning commission within the 1-year period immediately following a previous denial of such request. The planning commission may permit a new application if, in the opinion of the planning commission, substantial new evidence or a change of circumstances warrant reconsideration. (Ord. 79-4 § 1 (9.080))

17.18 REQUEST FOR REVIEW OF DECISION

17.18.010 Appeal of decision.

A decision of the approval authority may be appealed only if requested within 14 days after written notice of the decision is provided to the parties.

A. A party files a complete petition for review with the manager;

B. The manager files a complete petition for review; or

C. The city council directs that an appeal be initiated. The grounds for directing an appeal shall be set forth by the council.

17.18.020 Appeal authority.

A. The planning commission shall hear appeals of Type I and Type II decisions.

B. The city council shall hear appeals of decisions of the planning commission or design review board.

17.18.030 Requirements of a request for appeal.

An appeal of a development permit or design review board or planning commission decision shall contain the following:

A. An identification of the decision sought to be reviewed, including the date of the decision;

B. A statement of the interest of the person seeking the review. For a review of a decision by the design review board or planning commission, a statement that he/she was a party to the initial proceedings;

C. The specific grounds relied upon for review. For a review of a decision by the design review board or planning commission, a statement that the criteria against which review is being requested was addressed at the design review board or planning commission hearing; and

D. For a review of a decision by the design review board or planning commission, if a de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.18.060.

17.18.040 Scope of review.

A. An appeal of a permit or development permit shall be heard as a de novo hearing.

B. In an appeal of a design review board or planning commission decision, the reviewing body may determine, as a nonpublic hearing item, that the scope of review, on appeal will be one of the following:

1. Restricted to the record made on the decision being appealed;
2. Limited to the admission of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter;
3. Remand the matter to the hearing body for additional consideration; or
4. A de novo hearing on the merits. (Ord. 94-08 § 21; Ord. 90-10 § 1 (Appx. A § 66); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.082))

17.18.050 Review on the record.

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; and
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 hearing 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 hearing body need only consider those matters specifically raised by the appellant. The hearing body may consider other matters if it so desires.

E. The appellant shall bear the burden of proof. (Ord. 89-3 § 1; Ord. 79-4 § 1 (10.083))

17.18.060 Review consisting of additional evidence or de novo review.

A. The hearing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The hearing 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;
2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; or
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 Sections 17.16.070 and 17.16.080.

C. All testimony, evidence, and other material from the record of the previous consideration shall be included in the record of the review. (Ord. 90-10 § 1 (Appx. A § 62); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.084))

17.18.070 Review body decisions.

A. Upon review, the planning commission or city council may affirm, reverse, or modify in whole or part, a determination or requirement of the decision that is under review. When the planning commission modifies or renders a decision that reverses an administrative decision, the planning commission shall set forth its findings and state its reasons for taking the action in conformance with the requirements of Section 17.16.090. When the city council modifies or renders a decision that reverses a decision of the design review board or the planning commission, the city council shall set forth its findings and state its reasons for taking the action in conformance with the requirements of Section 17.16.090. When the city council elects to remand the matter back to the design review board or the

planning commission for further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

B. Notice of the city council decision shall be provided to all parties to the hearing within five working days of the date that the final order was signed. The notice of decision shall include:

1. A brief description of the decision reached;
2. A statement that the decision may be appealed to the land use board of appeals by filing a notice of intent to appeal a land use decision within twenty-one days after the date of the decision sought to be reviewed becomes final; and
3. A statement that the complete case, including the final order is available for review at the city. (Ord. 97-31 § 3; Ord. 90-3 § 19; Ord. 90-10 § 1 (Appx. A § 68); Ord. 89-3 § 1; Ord. 79-4 § 1 (10.085))

17.20 ENFORCEMENT

17.20.010 Enforcement authority.

The city manager shall have the power and principal responsibility for enforcing provisions of this title. The city shall not 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, intentionally or otherwise, shall be void. (Ord. 94-8 § 22; Ord. 90-10 § 1 (Appx. A § 69); Ord. 79-4 § 1 (11.010))

17.20.020 Revocation of development permit.

A development permit approval may be revoked by the manager in accordance with Section 17.12.070 upon finding that the applicant provided false information, that activities related to the approved development permit are inconsistent with the standards of this title, or that activities related to approved development permit are inconsistent with conditions of approval. No aspect of this section shall prevent enforcement of violations as otherwise provided for by this title or the Cannon Beach Municipal Code.

17.20.030 Violation – penalty.

A person convicted of violating a provision of this title is punishable by a fine of not less than one hundred dollars nor more than five hundred dollars. Each day in which a violation of this title occurs shall be considered a separate violation. (Ord. 92-1 § 7; Ord. 85-1 § 3; Ord. 79-4 § 1 (13.010))

17.20.040 Alternative remedy.

In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used in violation of this title, the building or land in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use. (Ord. 79-4 § 1 (13.020))

Article III – Land Use Districts

Chapter 17.24 ZONING DISTRICTS ESTABLISHED

17.24.010 Compliance with provisions.

A lot may be used, and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this title permits. (Ord. 79-4 § 1 (2.010))

17.24.020 Classification of zones.

For the purpose of this title, the following zones have been established in the city:

Zone description	Abbreviated Description
Residential. Very Low Density	RVL
Residential, Lower Density	RL
Residential, Moderate Density	R1
Residential, Medium Density	R2
Residential, High Density	R3
Residential, Alternative/Manufactured Dwelling	RAM
Residential/Motel	RM
Commercial, Limited	C1
Commercial, General	C2
Manufactured Dwelling Park & Recreational Vehicle Park	MP
Open Space Recreation	OSR
Estuary	E
Park Management	PK
Open Space	OS
Institutional	IN
Institutional Reserve	FHO

(Ord. 90-10 § 1 (Appx. A § 2); Ord. 8928 § 1; Ord. 84-7 § 1; Ord. 79-4 § 1 (2.020))

17.24.030 Location of zones.

The boundaries for zones listed in this title are indicated on a map entitled "Land Use and Zoning Map of Cannon Beach, Oregon," which is adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which are adopted by reference. The comprehensive plan and land use map are considered the same. (Ord. 79-4 § 1 (2.030))

17.24.040 Zoning of annexed areas.

Zoning regulations applicable to an area shall continue to be applied until a zone change has been applied for and adopted by the city council. (Ord. 79-4 § 1 (2.050))

Chapter 17.26 RESIDENTIAL VERY LOW DENSITY (RVL) ZONE

17.26.010 Purpose.

The purpose of the RVL zone is to establish a very low density residential area (minimum lot size one acre for a dwelling unit) in areas with steep slopes, lack of city services or existing low density land use patterns. The RVL area is intended to be a future growth area of the city, where higher density development shall, where practicable, be permitted upon annexation and zone amendment, and where geologic stability and availability of city services are demonstrated. In the RVL zone the provisions in Sections 17.26.020 through 17.26.040 apply. (Ord. 79-4 § 1 (3.010))

17.26.020 Uses permitted outright.

In an RVL zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

B. Parks or publicly owned recreation areas;

C. Utility lines necessary for public service;

D. A manufactured dwelling or recreational vehicle not exceeding 300 square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

E. Home occupation Type I, which satisfies the requirements of Section 17.72.040;

F. Residential home, or residential facility;

G. Family day care center or adult day care center; and

H. Accessory dwelling which satisfies the requirements of Section 17.72.080.

17.26.030 Conditional uses permitted.

In an RVL zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. Public or private school or college;

B. Governmental or municipal structure necessary for public service in the area, including utility substations or similar facility;

C. Forest management activities;

D. Cottage industry which satisfies the requirements in Section 17.86.260;

E. Day care center;

F. Home occupation Type II, which satisfies the requirements of Section 17.72.050; and

G. Community garden, which satisfies the requirements of Section 17.86.130.

(Ord. 09-4 § 2; Ord. 06-10 § 2; Ord. 97-6 § 3; Ord. 95-8 § 4; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.010)(2))

17.26.040 Standards.

In an RVL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. Lot area shall be 1acre per dwelling unit, except that lots of less than 1 acre in single, noncontiguous ownership prior to the date of enactment of the ordinance codified in this title are considered buildable subject to the other provisions of this title and the comprehensive plan. Lower density may be required on the basis of geologic hazards, percent of slope, availability of city services and vehicular access and circulation. The planning commission shall review partitions, subdivisions, planned developments and other development proposals under these criteria. The planning commission may authorize the placement of a government or municipal structure necessary for public service on a lot of less than one acre if it finds a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions and Yard Requirements. There are no lot dimension requirements. For lots of more than 10,000 square feet in size, no structure shall be located within 25 feet of a lot line. For lots that are 10,000 square feet in size or less: a front yard shall be at least 15 feet; a side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet; and a rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed 0.5.

E. Positioning of Structures for Future Subdivision. In areas where the future intention of the property or lot is further partitioning or subdivision, the planning commission shall, where practicable, require that structures be located to facilitate the future division of the land in a manner that accommodates smaller lot sizes and the extension of streets and utilities.

F. Building Height. Maximum height of a structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

G. Signs. As allowed by Chapter 17.62.

H. Parking. As required by Section 17.68.020.

I. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.70.

J. Geologic or Soils Engineering Study. As required by Chapter 17.106.

K. Zone Changes. Upon request of property owners, or their representatives, the planning commission may consider the change of an area of the RVL zone to another zone in order to obtain more intensive usage or higher densities where it is demonstrated by the applicant that:

1. A favorable geologic investigation indicates that the area will support more intensive development;

2. City services are available, or will be provided, including adequate water pressure, sewer and water system capacity and street width;

3. Traffic circulation patterns will not place a burden on neighborhood streets; and

4. The county planning commission has been given adequate opportunity to review the proposal and provide comment to the city.

L. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 § 15; Ord. 06-3 § 2; Ord. 00-4 § 1; Ord. 92-11 §§ 9, 10; Ord. 90-3 § 2; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.010)(3))

Chapter 17.28 RESIDENTIAL LOWER DENSITY (RL) ZONE

17.28.010 Purpose.

The purpose of the RL zone is to provide an area of lower density (4 dwelling units per net acre) in areas with steeper slopes, poor drainage or identified geologic hazards. (Ord. 79-4 § 1 (3.020))

17.28.020 Uses permitted outright.

In an RL zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

B. Public parks or publicly owned recreation area;

C. Utility lines necessary for public service;

D. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year;

E. Home occupation Type I, which satisfies the requirements of Section 17.72.040;

F. Residential home, or residential facility;

G. Family day care center or adult day care center; and

H. Accessory dwelling which satisfies the requirements of Section 17.72.080.

17.28.030 Conditional uses permitted.

In an RL zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. Church or community meeting hall;

B. Public or private school or college;

C. Governmental or municipal structure such as a fire station, utility substation or other facility, including power substations or facilities;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.86.210;

E. Day care center;

F. Home occupation Type II, which satisfies the requirements of Section 17.72.050; and

G. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 3; Ord. 06-10 § 4; Ord. 97-6 § 5; Ord. 95-8 § 5; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.020)(2))

17.28.040 Standards.

In an RL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. Lot area shall be at least 10,000 square feet. Lots of less than 10,000 square feet may be buildable pursuant to Section 17.88.020; provided, that such lots were not part of an aggregate of contiguous lots with an area or dimension of 10,000 square feet or greater held in a single ownership at the time of enactment of Ordinance 79-4A. Where there are lots held in a single contiguous ownership and one of the lots or combination of lots meets the minimum lot size but the other lot or combination of lots does not meet the minimum lot size, there shall be only one buildable lot. Example: three contiguous lots in a single ownership, each lot with an area of 5,000 square feet, constitute one buildable lot. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

   The planning commission may authorize the placement of a governmental or municipal structure necessary for public service on a lot of less than 10,000 square feet if it is found that a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least 75 feet.

2. Lot Depth. Lot depth shall be at least 90 feet.

3. Front Yard. A front yard shall be at least 15 feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet.

5. Rear Yard. A rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.98.050A. 6., Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use on a lot of 6,000 square feet or more shall not exceed 0.5. The maximum gross floor area for a permitted or conditional use on a lot of more than 5,000 square feet, but less than 6,000 square feet, shall not exceed 3,000 square feet. The floor area ratio for a permitted or conditional use on a lot with an area of 5,000 square feet or less shall not exceed 0.6.

E. Building Height. Maximum height of a vertical structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.62.

G. Parking. As required by Section 17.68.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.70.

I. Geologic or Soils Engineering Study. As required by Chapter 17.106.

J. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of

Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 §§ 16—18; Ord. 06-3 § 4; Ord. 94-08 § 4; Ord. 93-3 § 2; Ord. 92-11 §§ 12—14; Ord. 90-3 § 3; Ord. 90-11A § 1 (Appx. A § 4); Ord. 89-3 § 1; Ord. 79-4 § 1 (3.020)(3))

Chapter 17.30 RESIDENTIAL MODERATE DENSITY (R1) ZONE

17.30.010 Purpose.

The purpose of the R1 zone is to provide an area of moderate density (8 dwelling units per net acre) in areas of stable soils, lower slopes and with neighborhoods of existing single-family character. In an R1 zone, the provisions in Sections 17.30.020 through 17.30.040 apply. (Ord. 79-4 § 1 (3.030))

17.30.020 Uses permitted outright.

In an R1 zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

B. Public park or publicly owned recreation area;

C. Utility lines necessary for public service;

D. A manufactured dwelling or recreational vehicle not exceeding 300 square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year;

E. Home occupation Type I, which satisfies the requirements of Section 17.72.040;

F. Residential home, or residential facility;

G. Family day care center or adult day care center; and

H. Accessory dwelling which satisfies the requirements of Section 17.72.080.

17.30.030 Conditional uses permitted.

In an R1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. A church or community meeting hall;

B. Governmental or municipal structure, including a utility substation or other similar facility;

C. Public or private school or college;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.86.210;

E. Day care center;

F. Home occupation Type II, which satisfies the requirements of Section 17.72.050; and

G. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 4; Ord. 06-10 § 6; Ord. 97-6 § 7; Ord. 95-8 § 6; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.030)(2))

17.30.040 Standards.

In an RI zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. Lot area shall be at least 5,000 square feet, except that construction on lots of less than 5,000 square feet is permitted subject to the standards of Section 17.88.020. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least 40 feet.

2. Lot Depth. Lot depth shall be at least 80 feet.

3. Front Yard. A front yard shall be at least 15 feet.

4. Side Yard. A side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet.

5. Rear Yard. A rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.98.050A. 6., Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed 0.6.

E. Building Height. Maximum height of a structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.62.

G. Parking. As required by Section 17.68.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.70.

I. Geologic or Soils Engineering Study. As required by Chapter 17.106.

J. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 §§ 19, 20; Ord. 06-10 § 7; Ord. 06-3 § 6; Ord. 94-08 § 5; Ord. 93-3 § 3; Ord. 92-11 §§ 16—18; Ord. 90-3 § 4; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.030)(3))

Chapter 17.32 RESIDENTIAL MEDIUM DENSITY (R2) ZONE

17.32.010 Purpose.

The purpose of the R2 zone is to provide an area of moderate density (eleven dwelling units per net acre) in areas with stable soils, lower slopes, and mixed neighborhood character. In an R2 zone the provisions of Sections 17.32.020 through 17.32.040 apply. (Ord. 79-4 § 1 (3.040))

17.32.020 Uses permitted outright.

In an R2 zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

B. Two-family dwelling;

C. Public park or publicly owned recreation area;

D. Utility lines necessary for public service;

E. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year;

F. Home occupation Type I, which satisfies the requirements of Section 17.72.040;

G. Residential home, or residential facility;

H. Family day care center or adult day care center; and

I. Accessory dwelling which satisfies the requirements of Section 17.72.080.

17.32.030 Conditional uses permitted.

In an R2 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. A church or community meeting hall;

B. Governmental or municipal structure, including a utility substation or other similar facility;

C. Public or private school or college;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.86.210;

E. Bed and breakfast consistent with Chapter 17.80;

F. A studio in conjunction with an artist's residence in which only the artist's work is displayed or sold;

G. Day care center;

H. Home occupation Type II, which satisfies the requirements of Section 17.72.050; and

I. Community garden, which satisfies the requirements of Section 17.86.130.

(Ord. 09-4 § 5; Ord. 97-6 § 9; Ord. 92-11 § 20; Ord. 90-10 § 1 (Appx. A § 7); Ord. 89-3 § 1; Ord. 79-4 § 1 (3.040)(2))

17.32.040 Standards.

In an R2 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. Lot area shall be at least 5,000 square feet, except that construction on lots of less than 5,000 square feet is permitted subject to Section 17.88.020. The minimum lot size for a single-family dwelling shall be 5,000 square feet. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least 40 feet.

2. Lot Depth. Lot depth shall be at least 80 feet.

3. Front Yard. A front yard shall be at least 15 feet.

4. Side Yard. A side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet.

5. Rear Yard. A rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.98.050A. 6., Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed 0.6.

E. Building Height. Maximum height of a structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.62.

G. Parking. As required by Section 17.68.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to design review of Chapter 17.70.

I. Geologic or Soils Engineering Study. As required by Chapter 17.106.

J. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 §§ 21, 22; Ord. 06-10 § 8; Ord. 06-3 § 8; Ord. 94-08 § 6; Ord. 93-3 § 4; Ord. 92-11 §§ 21—23; Ord. 90-3 § 5; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.040)(3))

Chapter 17.34 RESIDENTIAL HIGH DENSITY (R3) ZONE

17.34.010 Purpose.

The purpose of the R3 zone is to provide an area of higher density (up to 15 dwelling units per net acre), in areas with stable soils, lower slopes, adequate traffic access and compatibility with existing development character. (Ord. 79-4 § 1 (3.050))

17.34.020 Uses permitted outright.

In an R3 zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

B. A two-family dwelling;

C. Multifamily dwelling, other than a limited triplex;

D. Limited triplexes consistent with Section 17.60.100;

E. Public park or publicly owned recreation area;

F. Utility lines necessary for public service;

G. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year;

H. Home occupation Type 1, which satisfies the requirements of Section 17.72.040;

I. Residential home;

J. Family day care center or adult day care center;

K. Accessory dwelling which satisfies the requirements of Section 17.72.080; and

L. A motel on a particular site, provided that the motel was in operation on that site on June 19, 1979, and has remained continuously in operation on that site since that date. A motel has remained in operation continuously if it has not been closed or otherwise unable to receive guests for any continuous period of one year since June 19, 1979.

17.34.030 Conditional uses permitted.

In an R3 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. A church or community meeting hall;

B. Governmental or municipal structure including a utility substation or other similar facility;

C. Public or private school or college;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.86.210;

E. Day care center;

F. Bed and breakfast consistent with Chapter 17.80;

G. Home occupation Type II, which satisfies the requirements of Section 17.72.050;

H. Assisted living facility; and

I. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 6; Ord. 08-1 § 23; Ord. 97-6 § 11; Ord. 92-12 § 1; Ord. 92-11 § 26; Ord. 90-10 § 1(Appx. A § 9); Ord. 89-3 § 1; Ord. 79-4 § 1 (3.050)(2))

17.34.040 Standards.

In an R3 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. Lot area shall be at least 5,000 square feet, except that construction on lots of less than 5,000 square feet is permitted subject to the standards of Section 17.88.020. The minimum lot size for a two-family dwelling shall be 5,000 square feet. The density of limited triplexes shall be in conformance with Section 17.60.100. The density of multifamily dwellings shall be 5,000 square feet for the first unit of the multifamily dwelling plus 2,500 square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (30 days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.84. The maximum density of motels and assisted living facilities shall be 1unit per 1,000 square feet of site area. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least 40 feet.

2. Lot Depth. Lot depth shall be at least 80 feet.

3. Front Yard. A front yard shall be at least 15 feet.

4. Side Yard. A side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet.

5. Rear Yard. A rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

6. Yard Abutting the Ocean Shore. For lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.98.050A. 6., Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use, other than a multifamily dwelling, shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use, other than a multifamily dwelling or assisted living facility, shall not exceed 0.6.

E. Building Height. Maximum height of a structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.62.

G. Parking. As required by Section 17.68.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.70.

I. Geologic or Soils Engineering Study. As required by Chapter 17.106.

J. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 §§ 24—27; Ord. 06-10 § 9; Ord. 06-3 § 10; Ord. 94-08 § 7; Ord. 93-3 § 5; Ord. 92-11 §§ 27—28; Ord. 90-3 § 6; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.050)(3))

Chapter 17.36 RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING (RAM) ZONE

17.36.010 Purpose.

The purpose of the RAM zone is to provide an area in which conventional residential uses, alternative low-cost housing and manufactured dwellings can be established at moderate to higher densities (11 dwelling units per net acre). In the RAM zone the regulations set out in Sections 17.36.020 through 17.36.040 apply. (Ord. 90-10 § 1 (Appx. A § 11); Ord. 79-4 § 1 (3.060))

17.36.020 Uses permitted outright.

In an RAM zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, including modular housing;

B. Manufactured home meeting the standards of Section 17.76.020;

C. Two-family dwelling;

D. Public park or publicly owned recreation area;

E. Utility lines necessary for public service;

F. A manufactured dwelling or recreational vehicle not exceeding 300 square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

G. Home occupation Type I, which satisfies the requirements of Section 17.72.040;

H. Residential home and residential facility;

I. Family day care center or adult day care center; and

J. Accessory dwelling which satisfies the requirements of Section 17.72.080.

17.36.030 Conditional uses permitted.

In an RAM zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. A church or community meeting hall;

B. Governmental or municipal structure including a utility substation or other similar facility;

C. Public or private school or college;

D. Day care center;

E. Manufactured dwelling park;

F. Multifamily dwellings;

G. Home occupation Type II, which satisfies the requirements of Section 17.72.050;

H. Assisted living facility; and

I. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 7; Ord. 08-1 § 28; Ord. 97-6 § 13; Ord. 92-11 § 31; Ord. 90-10 § 1 (Appx. A §§ 13, 14); Ord. 89-3 § 1; Ord. 79-4 § 1 (3.060)(2))

17.36.040 Standards.

In an RAM zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. The minimum lot size for a single-family dwelling, manufactured dwelling, modular home and a duplex shall be 5,000 square feet. The density of multifamily dwellings shall be 5,000 square feet for the first unit of the multifamily dwelling plus 2,500 square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (30 days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.84. The maximum density of assisted living facilities shall be 1residential unit per 1,000 square feet of site area. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least 40 feet.

2. Lot Depth. Lot depth shall be at least 80 feet.

3. Front Yard. A front yard shall be at least 15 feet.

4. Side Yard. A side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet.

5. Rear Yard. A rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

C. Lot Coverage. The lot coverage for a permitted or conditional use, other than a multifamily dwelling, shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use, other than a multifamily dwelling or assisted living facility, shall not exceed 0.6.

E. Building Height. Maximum height of a structure shall be 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Manufactured Dwellings. Manufactured dwellings shall be located in accordance with the requirements of Chapter 17.76.

G. Parking. As required by Section 17.68.020.

H. Signs. As allowed by Chapter 17.62.

I. Design Review. All uses except single-family dwellings, manufactured dwellings and modular housing and their accessory structures are subject to the provisions of Chapter 17.70.

J. Geologic or Soils Engineering Study. As required by Chapter 17.106.

K. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 §§ 29—32; Ord. 06-3 § 12; Ord. 93-3 § 6; amended during 7/92 supplement; Ord. 92-11 §§ 32—43; Ord. 90-3 § 7; Ord. 90-10 § 1 (Appx. A § 15); Ord. 89-3 § 1; Ord. 794 § 1 (3.060)(3))

Chapter 17.38 RESIDENTIAL MOTEL (RM) ZONE

17.38.010 Purpose.

The purpose of the RM zone is to provide an area for the establishment of motels and hotels and to prevent the utilization of motel property for non-motel commercial uses. Residential uses, including single-family, duplex, and multifamily dwellings at a maximum density of fifteen dwelling units per acre are also permitted. In an RM zone the regulations in Sections 17.38.020 through 17.38.040 apply. (Ord. 79-4 § 1 (3.070))

17.38.020 Uses permitted outright.

In an RM zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

B. A two-family dwelling;

C. Multifamily dwelling;

D. Motel or other tourist accommodation, including meeting rooms which are not in excess of thirty-five square feet per hotel or motel unit in size;

E. Bed and breakfast consistent with Chapter 17.80;

F. Public park or publicly owned recreation area;

G. Utility lines necessary for public service;

H. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued but not to exceed 1 year;

I. Home occupation Type I, which satisfies the requirements of Section 17.72.040;

J. Residential home or residential facility;

K. Family day care center or adult day care center; and

L. Accessory dwelling which satisfies the requirements of Section 17.72.080.

17.38.030 Conditional uses permitted.

In an RM zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. Church or community meeting hall;

B. Governmental or municipal structure, including a utility substation or other similar facility;

C. Public or private school or college;

D. Art gallery or studio;

E. Gift shop which is an integral part of the operation of the tourist accommodation, provided, however, that these operations are subordinate to the tourist accommodation and remain under the same ownership, that the use be located on the same contiguously owned property and that it will not exceed two hundred square feet in area;

F. Restaurant which is an integral part of the operation of the tourist accommodation; provided, however, that these operations are subordinate to the tourist accommodation operation and remain under the same ownership;

G. Meeting rooms which are in excess of 35 square feet per tourist accommodation unit in size. Parking requirements of Section 35 square feet per unit;

H. Structural shoreline stabilization: riprap, bulkhead and seawall consistent with Section 17.86.210;

I. Day care center;

J. Home occupation Type II, which satisfies the requirements of Section 17.72.050;

K. Assisted living facility; and

L. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 8; Ord. 08-1 § 33; Ord. 97-6 § 15; Ord. 94-27 § 1; Ord. 90-10 § 1 (Appx. A § 17); Ord. 89-3 § 1; Ord. 79-4 § 1 (3.070)(2))

17.38.040 Standards.

In an RM zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. Lot area shall be at least 5,000 square feet, except that construction on lots less than 5,000 square feet is subject to the standards of Section 17.88.020. The minimum lot size for a two-family dwelling shall be 5,000 square feet. The density of limited triplexes shall be in conformance with Section 17.60.100. The density of multifamily dwellings shall be 5,000 square feet for the first unit of the multifamily dwelling plus 2,500 square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (30 days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.84. The maximum density of motels and assisted living facilities shall be 1 unit per 1,000 square feet of site area. The density of a motel project that includes motel units and dwelling units, other than a manager's unit, shall be cumulative. Example: a 3-unit motel in conjunction with a 3-unit multifamily dwelling requires 10,000 square feet for the multifamily dwelling and 3,000 square feet for the motel units. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least 40 feet.

2. Lot Depth. Lot depth shall be at least 80 feet.

3. Front Yard. A front yard shall be at least 15 feet.

4. Side Yard. A side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet.

5. Rear Yard. A rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

6. Motel Yard Requirements. Yard requirements shall not apply to motels or hotels, except as to yards abutting the ocean shore and clear vision area requirements.

7. Yard Abutting the Ocean Shore. For lots abutting the ocean shore any yard abutting the ocean shore shall conform to the requirements of Section 17.98.050 A. 6. Oceanfront setback.

C. Lot Coverage. The lot coverage for a single-family dwelling, modular home or duplex shall not exceed 50 percent.

D. Floor Area Ratio. The floor area ratio for a single-family dwelling, modular home or duplex shall not exceed 0.6.

E. Building Height. Maximum height of a structure is 28 feet, measured as the vertical distance from the average elevation of exiting grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 32 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.62.

G. Parking. As required by Section 17.68.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.70.

I. Geologic or Soils Engineering Study. As required by Chapter 17.106

J. Outdoor Merchandising. As allowed by Section 17.60.170.

K. Site Plan. Except for interior renovation of existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan meeting the requirements of Section 17.60.210 has been submitted and approved. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 08-1 §§ 34—36; Ord. 06-10 § 10; Ord. 06-3 § 14; Ord. 94-08 § 8; Ord. 93-3 § 7; Ord. 92-11 §§ 35—37; Ord. 90-3 § 8; Ord. 89-3 § 1; Ord. 79-4 § 1 (3.070)(3))

Chapter 17.40 LIMITED COMMERCIAL (C1) ZONE

17.40.010 Purpose.

The purpose of the limited commercial zone is to provide an area in which primary retail uses may locate in the business areas of the city. Uses which do not require prime locations or which generate less traffic are generally to be located in the general commercial zone. In a C1 zone, the regulations set out in Sections 17.40.020 through 17.40.050 apply. (Ord. 79-4 § 1 (3.080))

17.40.020 Uses permitted outright.

In a C 1 zone the following uses and their accessory uses are permitted outright:

A. Retail trade establishment, such as a food store, drug store, gift shop, variety or appliance store;

B. Repair and maintenance service of the type of goods to be found in the above permitted retail trade establishment, provided such service is performed within an enclosed building;

C. Arts and crafts gallery and studio;

D. Business or professional office;

E. Garden store;

F. Financial institution;

G. Eating and drinking establishment, except those prohibited by Section 17.40.040;

H. Personal business service, including, but not limited to, barber shop, tailoring, printing, laundry and dry cleaning, or other service establishment;

I. Theater, but not including a drive-in;

J. Wholesale business in conjunction with a retail trade establishment on the same premises;

K. A residential use in conjunction with a permitted use where the residential use does not exceed 50 percent of the building’s floor area;

L. Publicly owned park or recreation area;

M. Utility lines necessary for public service;

N. A manufactured dwelling or recreational vehicle not exceeding 300 square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year;

O. Family day care center, day care center or adult day care center;

P. Accessory dwelling which satisfies the requirements of Section 17.72.070; and

Q. Museums. (Ord. 11-01 § 1; Ord. 06-3 § 15; Ord. 95-8 § 11; Ord. 94-06 § 1; Ord. 90-11A § 1 (Appx. A § 10); Ord. 89-3 § 1; Ord. 79-4 § 1 (3.080)(1))

17.40.030 Conditional uses permitted.

In a C1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. Cabinet, sheet metal, plumbing, carpenter or similar craft or trade shop;

B. Gasoline service station;

C. Government structure or use other than a park, including public parking and public schools;

D. Building materials supply sales;

E. Plant nursery;

F. Church or community meeting hall;

G. Custom manufacturing of goods for retail sale on the premises;

H. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.86.210;

I. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.76.020;

J. A two-family dwelling;

K. Multifamily dwelling;

L. Residential home or residential facility;

M. Limited manufacturing;

N. Assisted living facility; and

O. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 17-3 § 1; Ord. 09-4 § 9; Ord. 08-1 § 37; Ord. 98-17 § 2; Ord. 97-13 § 2; Ord. 94-5 § 8, Ord. 92-12 § 2; Ord. 92-11 § 38; Ord. 90-10 § 1(Appx. A § 18); Ord. 89-3 § 1; Ord. 85-3 § 4; Ord. 79-4 § 1 (3.080)(2))

17.40.040 Prohibited uses.

In a C1 zone the following uses are prohibited:

A. Amusement arcade;

B. Drive-in restaurant, formula food restaurant, or mobile food vending wagon, except those operating under the terms of a special events permit;

C. Other drive-in facilities such as a car wash; and

D. Private parking lot. (Ord. 21-04 § 4; Ord. 97-13 § 3; Ord. 94-06 § 2; Ord. 88-12 § 2; Ord. 79-4 § 1 (3.080)(2a))

17.40.050 Standards.

In a C1 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. None, except that the density of multifamily dwellings shall be 5,000 square feet for the first unit of the multifamily dwelling plus 2,500 square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (30 days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.84; and the maximum density of assisted living facilities shall be 1 residential unit per 1,000 square feet of site area.

B. Lot Dimension.

1. Lot Width and Depth. None.

2. Yards. None, except where a lot is adjacent to an R1, R2, R3, or MP zone, the same yard as in the abutting residential zone shall apply.

3. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore any yard abutting the ocean shore shall conform to the requirements of Section 17.98.050 A. 6. Oceanfront setback.

C. Building Height. Maximum height of a structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

D. Signs. As allowed by Chapter 17.62.

E. Parking. As required by Section 17.68.020. The required off-street parking spaces can be provided anywhere within the downtown commercial district, as identified in Figure 1 (at the end of this chapter).

F. Design Review. Design review requirements of Chapter 17.70 shall be met.

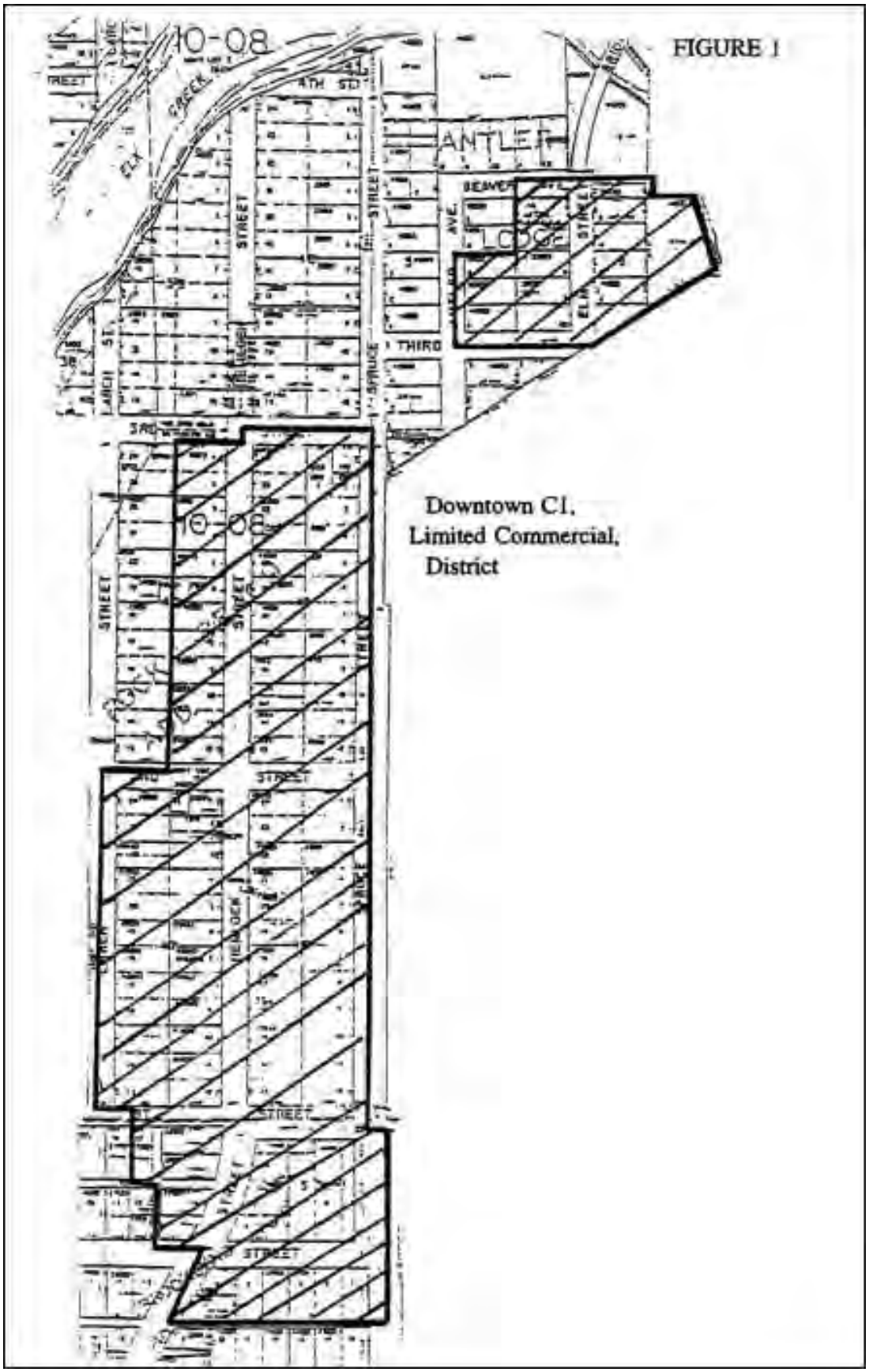
G. Geologic or Soils Engineering Study. As required by Chapter 17.106.

H. Outdoor Merchandising. As allowed by Section 17.60.170.

I. A minimum landscaping border of 3 feet shall be provided between the sidewalk and the frontage of all buildings facing the street. The planning commission may grant exceptions to this standard for doors and entries to buildings or where a combination of seating and landscaping is provided. Such landscaping may be part of the required landscaping specified in Section 17.70.110.

J. Floor Area Ratio. The floor area ratio for buildings located in the downtown commercial district, as identified in Figure 1 (at the end of this chapter) shall not exceed 0.7, except that buildings existing as of June 1, 1995, which exceed a floor area ratio of 0.7, may be replaced with a building(s) with a floor area ratio equivalent to that which existed on June 1, 1995.

K. Vehicular Access. In the downtown commercial district, as identified in Figure 1 (at the end of this chapter), no new vehicular access onto Hemlock Street shall be permitted. Vehicular access which existed as of July 6, 1995 may continue to be utilized, including modifications thereto.


10-08
FIGURE 1
ANTLER
Downtown C1,
Limited Commercial,
District

Chapter 17.42 GENERAL COMMERCIAL (C2) ZONE

17.42.010 Purpose.

The purpose of the general commercial C2 zone is to provide an area for more intensive types of commercial uses, other than retail establishments, which may be incompatible with the uses in the limited commercial zone. In a C2 zone the regulations set out in Sections 17.42.020 through 17.42.050 apply. (Ord. 79-4 § 1 (3.090))

17.42.020 Uses permitted outright.

In a C2 zone the following uses and their accessory uses are permitted outright:

A. Building materials supply sales;

B. Plant nurseries;

C. Government buildings and maintenance shops;

D. Warehouses or storage establishments;

E. Boat building, cabinet or carpentry shops, contractor's shops, machine shops, vehicle repair or storage;

F. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued but not to exceed 1 year;

G. Business office or professional office, up to ten percent of the area of a mixed use development; and

H. A residential use in conjunction with a permitted use where the residential use does not exceed 50 percent of the building's floor area.

17.42.030 Conditional uses permitted.

In a C2 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. Animal hospitals or kennels;

B. Enclosed recreation uses;

C. Utility substations;

D. Limited manufacturing; and

E. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 10; Ord. 98-17 § 3; Ord. 79-4 § 1 (3.090)(2))

17.42.040 Prohibited uses.

In a C2 zone the following uses are prohibited:

A. Retail uses that are oriented to or dependent upon highway traffic for business including, but not limited to, gas stations, drive-in restaurants and similar uses; and

B. Amusement arcade. (Ord. 88-12 § 3; Ord. 79-4 § 1 (3.090)(3))

17.42.050 Standards.

In a C2 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. None.

B. Lot Dimensions.

1. Lot Width and Depth. None;

2. Yards. None, except where adjacent to another zone, a minimum yard of 25 feet shall be provided; and where adjacent to a public right-of-way, a minimum yard of 10 feet shall be provided.

C. Building Height. Maximum height of a structure is 28 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 36 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

D Traffic. Traffic shall not be diverted directly onto the Highway 101 interchange.

E. Signs. As allowed by Chapter 17.62.

F. Parking. As required by Section 17.68.020.

G. Design Review. Design review requirements of Chapter 17.70 shall be met.

H. Geologic or Soils Engineering Study. As required by Chapter 17.106.

Chapter 17.44 MANUFACTURED DWELLING AND RECREATIONAL VEHICLE PARK (MP) ZONE

17.44.010 Purpose.

The purpose of the MP zone is to provide for lower cost housing in the form of manufactured dwellings in manufactured dwelling parks and on individual lots, recreational vehicle parks, accessory uses and campgrounds. (Ord. 90-10 § 1(Appx. A § 20); Ord. 79-4 § 1 (3.100))

17.44.020 Uses permitted outright.

The following uses are permitted outright in an MP zone:

A. Recreational vehicle park, including the following accessory uses—grocery store, gift shop and snack bar where the total area of these uses does not exceed 800 square feet, meeting and multi-use rooms whose total area does not exceed 35 square feet per each approved recreational vehicle space, laundry, restrooms, and recreational facilities—where these accessory uses are intended to provide services for the guests of the recreational vehicle park, subject to the standards of Section 17.86.190;

B. Manufactured dwelling park, including the following accessory uses—meeting and multi-use rooms and recreational facilities intended to serve residents of the manufactured dwelling park, subject to the standards of Section 17.76.010;

C. Public park or publicly owned recreation area and their accessory uses;

D. Utility lines necessary for public service;

E. Manufactured dwelling on an individual lot and their accessory uses; and

F. A manufactured dwelling or recreational vehicle not exceeding 300 square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year. (Ord. 06-8 § 2; Ord. 06-3 § 19; Ord. 90-11A § 1 (Appx. A § 12); Ord. 90-10 § 1 (Appx. A § 21); Ord. 79-4 § 1 (3.100)(1))

17.44.030 Conditional uses permitted.

In an MP zone the following uses are permitted subject to the provisions of Chapter 17.86:

A. Meeting and multi-use rooms, in conjunction with a recreational vehicle park, whose total area exceeds 35 square feet per each approved recreational vehicle space in the recreational vehicle park.

B. Grocery store, gift shop and snack bar in conjunction with a recreational vehicle park, where the total area of these uses exceeds 800 square feet.

C. Other uses accessory to a recreational vehicle park not specifically listed in Section 17.44.020 A.

D. Other uses accessory to a manufactured dwelling park not specifically listed in Section 17.44.020 B.

E. Campgrounds and their accessory uses.

F. Structural shoreline stabilization: riprap, bulkhead, or seawall consistent with Section 17.86.210.

G. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 11; Ord. 06-8 § 3; Ord. 90-10 § 1 (Appx. A § 22); Ord. 79-4 § 1 (3.100)(2))

17.44.040 Standards.

In an MP zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Lot Size. A manufactured dwelling on an individual lot shall have a minimum lot size of 5,000 square feet. A manufactured dwelling placed in a manufactured dwelling park shall have a lot size in conformance with Section 17.86.160. Recreational vehicles placed in a recreational vehicle park shall have a lot size in conformance with Chapter 17.86.190. The minimum lot size for all uses, including single-family dwellings, shall be adjusted for average slope using the standards in Section 17.120.190 A.

B. Lot Dimensions.

1. Manufactured dwellings on an individual lot shall have a minimum lot width of 40 feet and a minimum lot depth of 80 feet. The front yard shall be at least 15 feet. The side yard shall be at least 5 feet, except on a corner or through lot the minimum side yard from the street shall be 15 feet. The rear yard shall be at least 15 feet, except on a corner or through lot it shall be a minimum of 5 feet, except where a rear lot line abuts a street, it shall be a minimum of 15 feet.

2. Manufactured dwellings placed in a manufactured dwelling park shall meet the lot dimension standards of Section 17.80.180.

3. Recreation vehicles placed in a recreation park shall meet the lot dimension standards of Chapter 17.80.2 10.

C. Lot Coverage and Floor Area Ratio. The lot coverage for a manufactured dwelling on an individual lot shall not exceed 50 percent. The floor area ratio for a manufactured dwelling on an individual lot shall not exceed 0.6.

D. Building Height. Maximum height of a structure is 24 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 28 feet. Pitched roofs are considered those with a 5-12 pitch or greater.

E. Manufactured Dwellings. Manufactured dwellings shall be located in accordance with the requirements of Chapter 17.76.

F. Signs. As allowed by Chapter 17.62.

G. Parking. As required by Section 17.68.020.

H. Design Review. All uses except manufactured dwellings and recreational vehicles and their accessory structures are subject to design review requirements of Chapter 17.70.

I. Geologic or Soils Engineering Study. As required by Chapter 17.106.

Chapter 17.46 OPEN SPACE/RECREATION (OSR) ZONE

17.46.010 Purpose.

The purpose of the OSR zone is to provide an area of low intensity open space or recreation use in which the natural features of the land are retained to the maximum extent possible. (Ord. 79-4 § 1 (3.110))

17.46.020 Uses permitted outright.

In an OSR zone the following uses are permitted outright:

A. Park or publicly owned passive recreation area; and

B. Utility lines necessary for public service.

17.46.030 Conditional uses permitted.

In an OSR zone the following uses and their accessory uses are permitted subject to the provisions of Chapter 17.86:

A. Privately owned campgrounds;

B. Recreation vehicle parks;

C. Organized camps;

D. Churches or meeting halls;

E. Forest management; and

F. Community garden, which satisfies the requirements of Section 17.86.130. (Ord. 09-4 § 12; Ord. 79-4 § 1 (3.110) (2))

17.46.040 Standards.

In an OSR zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. The standards of the Oregon State Health Division apply to campgrounds; and

B. All uses shall be evaluated under Chapter 17.70.

Chapter 17.48 ESTUARY (E) ZONE

17.48.010 Purpose.

The purpose of the estuary zone is to:

A. Assure the protection of fish and wildlife habitats;

B. Maintain the biological productivity within the estuary; and

C. Provide for low-intensity uses that do not require major alterations of the estuary. The Ecola Creek Estuary is defined to include: estuarine water; tidelands; tidal marshes (wetlands from lower high water (LHW) inland to the line of nonaquatic vegetation); and submerged lands. In areas where there are no tidelands or tidal marshes, the estuary extends to mean higher high water. The estuary extends upstream to the head of tidewater. Site specific delineations may be necessary to determine the exact location of the E zone boundary. Site specific delineations shall be performed by qualified individuals using a method acceptable to the U.S. Army Corps of Engineers and the Oregon Division of State Lands. (Ord. 95-21 § 1; Ord. 87-15 §3, 1987; Ord. 86-10 § 2; Ord. 79-4 § 1 (3.120))

17.48.020 Uses permitted outright.

In the estuary zone, the following uses and activities shall be permitted subject to the requirements of Section 17.48.040:

A. Passive restoration measure;

B. Vegetative shoreline stabilization;

C. Research and education observation;

D. Emergency repair to existing dikes, subject to state and federal requirements;

E. Temporary dikes for emergency flood protection, limited to sixty days, subject to state and federal requirements;

F. Maintenance and repair of dikes; and

G. Individual nonmotorized boating.

17.48.030 Conditional uses permitted.

A. In the estuary zone, the following uses may be permitted when authorized in accordance with provisions of Chapter 17.86 and Section 17.48.040:

1. Submerged cable, sewer line, water line or other pipeline;

2. Maintenance and repair of structures or facilities existing as of October 7, 1977, which no longer meet the purposes of the estuary zone;

3. Active restoration of fish and wildlife habitat or water quality;

4. Estuarine enhancement;

5. Structural shoreline stabilization for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values and public facilities; and

6. Bridge crossings.

B. In the estuary zone, the following uses may be permitted when authorized in accordance with the provisions of Chapter 17.86 and Section 17.48.040. It must also be determined if these uses and activities meet the resource capability of the estuary zone area in which the uses and activities occur, and if the uses and activities are consistent with the purpose of the estuary zone, as stated above. The procedures of Chapter 17.104, Resource Capability Determination, will be used to make this determination:

1. Structural shoreline stabilization for purposes other than allowed by subsection (A)(5) of this section;

2. Active restoration for purposes other than restoration of fish and wildlife habitat or water quality;

3. Stormwater and treated wastewater outfalls;

4. Bridge crossings support structures;

5. Dredging, fill or piling installation necessary for the installation of a conditional use listed above;

6. Temporary alterations; and

7. Uses and activities permitted by an approved goal exception. (Ord. 95-21 § 1; Ord. 86-10 § 2; Ord. 79-4 § 1 (3.120) (2))

17.48.040 Additional development standards—Procedural requirements.

A. All uses shall satisfy applicable specific standards of Section 17.86.090. Where a proposal involves several uses, the standards applicable to each use shall be satisfied.

B. When a proposal includes several uses, the uses shall be reviewed in aggregate under the more stringent procedure. In addition, a proposal with several uses shall be reviewed in aggregate for consistency with the resource capability and purposes of the estuary zone, when a resource capability determination is required.

C. All applicable policies in the city comprehensive plan shall be adhered to.

D. Uses and activities that would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration, subject to the requirements of Chapter 17.102, Impact Assessment.

E. No use shall be allowed in the estuary zone that would cause a major alteration of the estuary.

F. Dredge and/or fill shall be allowed only:

1. If required for water-dependent uses that require an estuarine location, or if specifically allowed by this zone;

2. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

3. If no feasible upland locations exist;

4. If adverse impacts are minimized.

G. Other uses and activities which could alter the estuary shall only be allowed if the requirements in subsections F. 2., 3., and 4. of this section are met.

H. Riparian vegetation shall be managed in accordance with the requirements of Section 17.43.050(L).

Chapter 17.50 PARK MANAGEMENT (PK) ZONE

17.50.010 Purpose.

The purpose of the park zone is to designate uses and standards for the maintenance and construction of public parks, subject to the policies of the comprehensive plan. (Ord. 79-4 § 1 (3.130))

17.50.020 Uses permitted outright.

In a park zone the following uses and their accessory uses are permitted outright:

A. Management, general maintenance and daily operation of public park areas and facilities;

B. Replacement or repair of park facilities, roads and parking areas which have deteriorated or become nonfunctional through general use, fire, natural disasters, vandalism or obsolescence; and

C. Minor betterment and improvements to park areas or facilities that enhances functionability or is necessary to accommodate existing public uses. (Ord. 79-4 § 1 (3.130) (1))

17.50.030 Conditional uses permitted.

The following uses may be permitted when authorized in accordance with the provisions of Chapter 17.86:

A. Construction of new facilities, including a community garden, or expansion of existing facilities designed to increase overall visitor capacity or which would have a significant land use impact.

B. Governmental or municipal structure. (Ord. 10-3 § 1; Ord. 09-4 § 13; Ord. 79-4 § 1 (3.130) (2))

17.50.040 Standards.

In a PK zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Construction, operation, and maintenance of the city's parks shall be the responsibility of the city.

B. Construction, operation, and maintenance of the state parks and waysides are under the authority of the State Parks and Recreation Department.

C. Normal operation, maintenance, or replacement within state parks and waysides shall not fall under the standards of the city. (Ord. 92-11 § 44; Ord. 90-3 § 13; Ord. 79-4 § 1 (3.130) (3))

Chapter 17.52 OPEN SPACE (OS) ZONE

17.52.010 Purpose.

The purpose of the open space zone is to preserve areas in their natural condition. (Ord. 79-4 § 1 (3.140))

17.52.020 Uses permitted outright.

A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing, or not applying the city's land use regulation(s) where the standards of Section 17.60.190 are met. (Ord. 06-3 § 25; Ord. 79-4 § 1 (3.140) (1))

17.52.030 Conditional uses permitted.

The following conditional uses are permitted in the open space zone:

A. Trails, when authorized in accordance with the provisions of Chapter 17.86. Trails shall not be permitted on Chapman Point; and

B. Wetland enhancement, including compensatory mitigation. (Ord. 01-1 § 1; Ord. 95-17 § 1; Ord. 79-4 § 1 (3.140) (2))

17.52.040 Standards.

The standards of Sections 17.26.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s).

Chapter 17.54 INSTITUTIONAL (IN) ZONE

17.54.010 Purpose.

The purpose of the institutional zone is to provide for a range of governmental and municipal uses. (Ord. 98-3 § 3; Ord. 79-4 § 1 (3.150))

17.54.020 Uses permitted outright.

In the institutional zone the following uses and their accessory uses are permitted outright:

A. Community buildings and areas which provide for educational or cultural activities;

B. Museums; and

C. Reload facility. (Ord. 98-3 § 4; Ord. 79-4 § 1 (3.150) (1))

17.54.030 Conditional uses permitted.

The following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.86:

A. Public parking facility;

B. Sewage treatment facility;

C. Wood waste processing, not including a building;

D. Public restroom;

E. Recycling facility;

F. Public school;

G. Pump station or other similar facility;

H. Public park or publicly owned recreation area;

I. Public works shop or yard;

J. Dog impound facility; and

K. Community garden, which satisfies the requirements of Section 17.86.130 (Ord. 09-4 § 14; Ord. 98-8 § 2; Ord. 98-3 § 5; Ord. 79-4 § 1 (3.150) (2))

17.54.040 Standards.

In an IN zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.70:

A. Setbacks. Structures adjoining another zone or public right-of-way shall be set back twenty-five feet. No parking shall be permitted in this setback. Existing structures, at the time of adoption of the ordinance codified in this title, shall maintain their setbacks. Where parking occurs in the setback area, such use may continue.

B. Building Height. Maximum height of a structure is 28 feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed 36 feet.

C. Signs. As allowed by Chapter 17.62.

D. Parking. As allowed by Section 17.68.020.

E. Access. The provision of consolidated street access points shall be considered in site design. Street access should be located to minimize the impact on adjacent residential areas.

F. Design Review. All uses shall be evaluated under Chapter 17.70, Design Review Procedures and Criteria. (Ord. 90-3 § 14; Ord. 79-4 § 1 (3.150) (3))

Chapter 17.56 INSTITUTIONAL RESERVE (IR) ZONE

17.56.010 Purpose.

The purpose of the institutional reserve zone is to reserve areas for potential future urban uses. (Ord. 13-10 § 1)

17.56.020 Uses permitted outright.

The following uses are permitted outright in the institutional reserve zone:

A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.

B. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation.

C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities. (Ord. 13-10 § 1)

17.56.030 Conditional uses permitted.

The following conditional uses may be permitted in the institutional reserve zone:

A. Trails, when authorized in accordance with the provisions of Chapter 17.86.

B. Emergency shelter on land within the urban growth boundary.

C. Maintenance, repair, and seismic upgrade of municipal water storage facilities. (Ord. 13-10 § 1)

17.56.040 Standards.

The following standards shall apply in the institutional reserve zone:

A. Forest operations are subject to the requirements of a valid plan approved by the Oregon Department of Forestry.

B. “Auxiliary,” as it is used in Section 17.56.020 B. and C., means, a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on-site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded. (Ord. 13-10 § 1)

Article IV – Development Standards

Chapter 17.60 GENERAL REQUIREMENTS AND REGULATIONS

17.60.010 Authorization of similar uses.

The planning commission may authorize that a similar use, not specifically listed in the allowed uses of a zone, shall be included among the allowed uses if deemed similar. However, this section prohibits the inclusion in a zone where it is not listed, a use specifically listed in another one, or a use of the same general type and similar to a use specifically listed in another zone. (Ord. 79-4 § 1 (4.020))

17.60.020 Access requirement.

Every lot shall abut a street, other than an alley, for at least 25 feet. Lots which were created prior to adoption of the zoning ordinance which do not meet this provision may be accessed via an irrevocable recorded easement of a minimum of 10 feet in width. (Ord. 87-14 § 1; Ord. 79-4 § 1 (4.030))

17.60.030 Maintenance of access.

The city shall review, under ORS 271.080 through 271.230, proposals for the vacation of public easements or rights-of-way which provide access to the ocean beach or estuarine waters. Existing rights-of-way and similar public easements which provide access to coastal waters shall be retained or replaced if they are sold, exchanged, or transferred. Rights-of-way may be vacated so long as equal or improved access is provided as part of a development project. (Ord. 89-28 § 3; Ord. 86-10 § 4; Ord. 79-4 § 1 (4.035))

17.60.040 Clear-vision areas.

A. Requirement. A clear-vision area shall be maintained on the corners of all property adjacent to the intersection of two streets. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 3 feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of 8 feet above the grade.

B. Measurement. A clear-vision area is that area enclosed by the lines formed by the center lines of intersecting pavements or driving surfaces and a straight line drawn diagonally, across the corner, connecting those lines at the various distances specified by the chart below. The measured distance along the uncontrolled driving surface is “vision clearance

distance -a-." The measured distance along the controlled driving surface is "vision clearance distance -b-." Measurement of the vision clearance distance -a- shall be from the point of intersection of the center lines of the two travel surfaces. Measurement of the vision clearance distance -b- shall be from the adjacent stop sign.

C. Exceptions. The requirements of subsection B do not apply to public utility poles or traffic control signs.

	Clear-Vision Area	
Street Classification	**Vision Clearance Distance -a-**	**Vision Clearance Distance -b-**
15 mph street and 15 mph street	75 ft.	10 ft.
15 mph street and 20 mph street	125 ft.	10 ft.
15 mph street and 30 mph street	200 ft.	10 ft.

(Ord. 93-21 §§ 2, 3, 4)

17.60.050 Maintenance of minimum requirements.

No lot area, yards, other open space, or off-street parking or loading area existing on or after the effective date of the zoning ordinance shall be reduced below the minimum required for it by the zoning ordinance. No conveyance of any portion of a lot, for other than a public use, shall leave a structure on the remainder of the lot with less than minimum ordinance requirements. (Ord. 79-4 § 1 (4.070))

17.60.060 Dual use of required open space.

No lot area, yard or other open space or off-street parking or loading area which is required by the zoning ordinance for one use shall be a required lot area, yard or other open space or off-street parking or loading area for another use. (Ord. 79-4 § 1 (4.080))

17.60.070 Architectural design elements.

All single-family dwellings, modular housing and manufactured homes located in the RVL, RL, R1, R2, RAM, R3, RM, and C1 zones shall utilize at least two of the following architectural features: dormers; more than two gables; recessed entries; covered porch/entry; bay window; building off-set; deck with railing or planters and benches; or a garage, carport, or other accessory structure. (Ord. 94-5 § 11)

17.60.080 Projections into required yards.

A. Cornices, eaves, window sills, and similar incidental architectural features may project not more than 18 inches into a yard required to be a minimum of 5 feet, or 36 inches into a yard required to be 15 feet or more.

B. Bay windows, with no useable floor area and not exceeding a length of 10 feet and not more than 1 per building elevation, may project not more than 18 inches into a required side yard, or 36 inches into a required front or rear yard. Bay windows may not project into a required ocean yard.

C. Chimneys shall project not more than 24 inches into any required yard.

D. Building Entrances.

1. Unroofed landings may project not more than 36 inches into a required front yard, rear yard or street side yard where they provide access to the first story of a dwelling, as the term story is defined by the building code and where the landing is limited to no more than 10 lineal feet. Such a landing may be accessed by no more than three risers. Unroofed landings and stairs may not project into a required ocean yard.

2. A covered entry to a dwelling may project not more than 36 inches into a required front yard, rear yard, or street side yard where the entry provides access to the first story of the dwelling, as the term story is defined in the building code. The covered entry is limited to no more than 10 feet in length and shall be completely open on all sides. The entry may be accessed by no more than 3 risers. Covered entries and stairs may not project into a required ocean yard.

E. Patios and decks, including any fixed benches, railings, or other attachments, which are no more than 30 inches in height above the existing grade may project into a required yard, but may not be closer than 2 feet to any property line. For lots abutting the ocean shore, a deck or patio permitted in the required yard may not be closer than 2 feet to the western property line or the Oregon Coordinate Line, whichever is further east. Patios and decks constructed in a required yard shall not obstruct significant views of the ocean, mountains, or similar features from abutting property. (Ord. 08-1 §§ 58, 59; Ord. 92-11 § 54; Ord. 92-11 § 54; Ord. 79-4 § 1 (4.090))

17.60.090 Exceptions to building height regulations.

Projections such as chimneys, spires, domes, elevator shaft housings, towers, wind generators, aerials, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of the zoning ordinance. (Ord. 79-4 § 1 (4.180))

17.60.100 Limited triplexes.

Triplexes permitted by Section 17.34.020 (D) shall conform to the following standards:

A. The minimum lot size shall be 5,000 square feet;

B. Four off-street parking spaces shall be provided; and

C. The property owner shall annually submit a notarized sworn statement that a minimum of 2 of the dwelling units are used for nothing other than long-term rental purposes (periods of 30 calendar days or more). (Ord. 92-11 § 65; Ord. 89-3 § 1; Ord. 79-4 § 1 (4.150))

17.60.110 Control of lights on public beach.

No artificial light source shall be placed so that it directly illuminates the public beach at a distance of more than 100 feet from the Oregon Coordinate Line or the property line, whichever is most eastward, after January 1, 1985. “Artificial light source” is defined as a lamp or other emitter of light which is directly visible from the public beach, including but not limited to flood lamps, area or barn lights, and streetlights. (Ord. 79-4 § 1 (4.105))

17.60.120 Residential exterior lighting.

Exterior lighting, either free-standing or attached to a single-family residence, shall comply with these standards.

A. General Requirements. For residential properties including multiple residential properties not having common areas, all outdoor luminaires shall be fully shielded and shall not exceed 1,260 lumens.

B. Exceptions.

1. One partly shielded or unshielded luminaire at the main entry, not exceeding 630 lumens.

2. Any other partly shielded or unshielded luminaires not exceeding 315 lumens.

3. Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2,100 lumens.

4. Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding 2,100 lumens.

5. Open flame gas lamps.

6. Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.

7. Exempt Lighting.

    a. Temporary lighting for theatrical, television, performance areas and construction sites.

    b. Underwater lighting in swimming pools and other water features.

    c. Temporary lighting and seasonal lighting provided that individual lamps are less than 10 watts and 70 lumens.

    d. Lighting that is only used under emergency conditions.

    e. Low voltage landscape lighting controlled by an automatic device that is set to turn the lights off no later than 10 p.m.

    f. Upcast lighting illuminating a flag of the United States, not exceeding 2,100 lumens. (Ord. 14-6 § 8)

17.60.130 Conversion of motels to condominiums.

In the event a motel is converted to a condominium, the requirements of the use to which it is converted shall apply. (Ord. 79-4 § 1 (4.125))

17.60.140 Storage in front yards.

Boats 18feet in length or greater, or recreation vehicles 6.5 feet in height or greater shall not be stored in a required front yard. (Ord. 90-11A § 1 (Appx. A § 13); Ord. 79-4 § 1 (4.050))

17.60.150 Recreational vehicle occupancy.

Recreational vehicles may not be occupied on any lot in the city except as follows:

A. In an approved recreational vehicle park; or

B. During the construction period of a permitted use for which a building permit has been issued, but not to exceed 1 year and where the size of the recreational vehicle does not exceed 300 square feet. (Ord. 90-11A § 1 (Appx. A § 14); Ord. 79-4 § 1 (4.055))

17.60.160 Storage of unused vehicles, junk or debris.

It is unlawful to keep inoperative vehicles or vehicle parts within view of persons on a public street or adjacent properties, or to keep unsightly and potentially hazardous accumulations of debris within view of persons on the public street or adjacent properties. (Ord. 79-4 § 1 (4.850))

17.60.170 Outdoor merchandising.

A. Purpose. The purpose of this section is to ensure that certain commercial activities are carried out in a manner that is aesthetically compatible with adjacent uses, minimizes congestion in commercial areas, minimizes impact on pedestrian circulation and maintains open space areas designed for pedestrian use.

B. All uses in the C1, C2, and RM zones shall be conducted entirely within a completely enclosed building except that the outdoor storage, display, sale, or rental of merchandise or services may be permitted where the standards of subsection D of this section are met. The following uses and activities, subject to applicable conditions, are exempt from this prohibition:

1. The sale of living plant materials and cut flowers;

2. Outdoor seating in conjunction with a restaurant;

3. Holiday tree sales lot;

4. The dispensing of gasoline at a service station;

5. Newspaper vending machines subject to subsection (E)(1) of this section;

6. The sale of goods and services by a nonprofit organization are subject to Section 04.01.130;

7. Automatic teller machines, subject to the design review requirements of Chapter 17.70;

8. Telephone booths, subject to the design review requirements of Chapter 17.70;

9. Live music and other outdoor performances, subject to Section 04.01.130; and

10. Farmers' market, subject to Section 04.01.130.

C. The prohibition on the outdoor storage or display of merchandise in conjunction with a commercial use applies to the general type of merchandise which is sold within the business premises, not just specific merchandise styles or brands.

D. The outdoor storage, display, sale, or rental of merchandise or services may be permitted where:

1. The outdoor area in which the merchandise or service is stored, displayed, sold, or rented is accessible only through a building entrance;

2. The outdoor area is screened from a public street or adjacent property in a manner approved by the design review board; or

3. The outdoor activity is permitted through a special event permit.

E. Newspaper vending machines: Newspaper vending machines, placed on a public sidewalk, shall be located so that the use of the sidewalk by handicapped persons is not impeded. This standard shall be met by maintaining a minimum, unobstructed sidewalk width of 4 feet.

F. For the purposes of this section, the free distribution of merchandise with a special events permit, is not considered outdoor merchandising. (Ord. 21-04 § 5; Ord. 10-5 §§ 1, 2; Ord. 08-1 §§ 60, 61; Ord. 97-2 § 2; Ord. 90-10 § 1 (Appx. A § 44); Ord. 79-4 § 1 (4.900))

17.60.180 Duplex standards.

The individual dwelling units of a duplex may not be sold as separate personal property. (Ord. 09-2 § 1; Ord. 06-10 § 12; Ord. 95-8 § 13)

17.60.190 Site plan.

Except for interior renovation of an existing structures and exterior renovations such as siding replacement where there will be no ground disturbance, no new construction shall be approved unless a site plan containing the following information is submitted and approved showing the location of:

A. Property boundaries and dimensions.

B. Easements, if any.

C. Existing and proposed structures.

D. Existing structures on adjoining property if within one tree-protection zone of the common property boundary. A tree protection zone is defined as a circle with 2 feet of radius for each inch of trunk diameter measured at 4.5 feet above grade.

E. Existing trees 6-inch diameter at breast height (DBH) or larger.

F. Existing trees 6-inch DBH or larger on adjoining property that, in the judgment of the applicant's certified arborist, might be damaged by construction activity on the subject property. Alternatively, in the absence of a report by a certified arborist, all trees on adjoining property within one tree protection zone of the common property boundary. A tree protection zone is defined as a circle with 2 feet of radius for each inch of DBH.

G. Existing trees 6-inch DBH or larger in the adjoining street right-of-way that, in the judgment of the applicant's certified arborist, might be damaged by construction activity on the subject property. Alternatively, in the absence of a report by a certified arborist, all trees in the adjoining street right-of-way within one tree protection zone of the subject property.

H. Existing and proposed features needed to calculate lot coverage as defined in Section 17.04.

I. Topographic information needed to determine average grade as defined in Section 17.04.

J. For property in the oceanfront management overlay (OM) zone, data needed to calculate oceanfront setback pursuant to Section 17.98.050 (A)(6).

K. For property in the wetland overlay (WO) zone, the location of wetlands and riparian corridors.

L. For property in the flood hazard overlay (FHO) zone, the location and type of flood hazard.

M. The city manager may waive any of these requirements if not applicable for particular developments or sites. (Ord. 19-3 § 1)

Chapter 17.62 SIGNS

17.62.010 Purpose.

The purpose of this chapter is to regulate such factors as the size, number, location, illumination, and construction of signs with the intent of safeguarding and enhancing the aesthetic character of the city. (Ord. 89-29 § 2; Ord. 89-3 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(1))

17.62.020 Conformance.

No sign may be erected unless it conforms with the regulations of this chapter. Sign permits, as required by Section 17.62.060 must be approved prior to the erection of the sign. (Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(2))

17.62.030 Regulations—Generally.

The following general provisions shall govern all signs, in addition to all other applicable provisions pertaining to signs:

A. Sign Face Area.

1. The area of sign faces enclosed in frames or cabinets is determined by the outer dimensions of the frame or cabinet surrounding the sign face (see Figure 1 of this chapter). Sign area does not include foundations, supports and other essential structures which do not serve as a backdrop or border to the sign. Only one side of a double-faced sign is counted in measuring the sign face area. (To be considered a double-faced sign, the sides of the sign must be flush.)

2. When signs are constructed of individual pieces the sign area is determined by a perimeter drawn around all the individual pieces taken together (see Figure 2 of this chapter).

3. For sign structures containing multiple sign modules oriented in the same direction, the sum of the sign area of the individual sign modules are counted as one sign face (see Figure 3 of this chapter).

4. The area of a sign shall be determined according to the following:

   a. Rectangle or square: length times width.

   b. Triangle: length times width divided by two.

   c. Circle: 3.14 times R squared, where R is the sign's radius.

   d. Oval: the area contained within a rectangle whose length times width does not exceed 30 square feet.

   e. The city shall measure other sign shapes, not listed above, according to the formula it determines to be most appropriate.

5. Where a business or use has more than one entrance, the business owner shall specify which entrance is the business frontage for the purpose of calculating sign face area.

B. Height of Signs. No freestanding, projecting, or awning sign, including supporting structures, shall be more than 16 feet in height. The overall height of a sign or sign-supporting structure is measured from the existing grade directly below the sign to the highest point of the sign or sign-supporting structure (see Figure 4 of this chapter).

C. Clearances. Clearances are measured from the existing grade directly below the sign to the bottom of the sign structure enclosing the sign face (see Figure 5 of this chapter).

D. Corner Signs. Corner signs facing more than one street shall be assigned to a site frontage by the applicant. The sign must meet all provisions for the site frontage it is assigned to.

E. Sign Placement.

1. Placement. All signs and sign structures shall be erected and attached totally within the site except where permitted to extend into a street right-of-way.

2. Frontages. Signs allowed based on the length of one site frontage may not be placed on another site frontage.

3. Vision Clearance Areas. No sign may be located within a vision clearance area as defined in Section 17.60.040.

4. Vehicle Area Clearances. When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least 14 feet above the ground. Vehicle areas include driveways, parking lots and loading and maneuvering areas.

5. Pedestrian Area Clearances. When a sign extends over sidewalks, walkways, or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least 8 feet above the grade. An exception is provided for a sign that is attached to the structural element associated with a doorway or entry that is less than 8 feet above the grade. In this case, the sign shall be placed no lower than the lowest point of the structural element associated with the doorway or entry.

6. Projecting Signs. Signs shall project no more than 2 feet into a public right-of-way.

F. Sign Lettering. The maximum letter height shall be 12 inches.

G. Signs Not to Constitute a Traffic Hazard. Signs or sign supporting structures shall not be located so as to detract from a motorist's view of vehicular or pedestrian traffic or a traffic sign.

H. Glare. All signs shall be so designed and located so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated streets and surrounding public or private property.

I. Prohibited Signs. The following signs are prohibited:

1. Signs that contain flashing elements;

2. Signs that contain moving, rotating or otherwise animated parts;

3. Signs that contain luminescent, fluorescent or phosphorescent paints or paper. This includes paints referred to as day-glo, hot or neon;

4. Signs that contain neon-type lighting, including such signs when located within a building where that sign is visible from the street adjacent to the exterior of the building;

5. Signs that are internally lighted;

6. Signs placed so that the sign extends above a flat roof or the ridge of a pitched roof;

7. In the C1, C2, RM, MP, OSR, IN and PK zones, no devices such as pennants, streamers, spinners, windsocks or kites, or similar devices which move as a result of air pressure. These devices, when not part of a sign, are similarly prohibited;

8. A public address system, sound system or similar device, either permanently or temporarily installed exterior to a building, whether or not it is used to advertise a business or product, where the sound is audible from a public street or adjacent property;

9. Sandwich board sign;

10. Reader board sign;

11. Bench sign; and

12. Wall graphics.

J. Materials.

1. A sign subject to a permit shall meet the material and construction methods requirements of the Uniform Sign Code (1985).

2. Signs shall be constructed of wood or have a wood exterior or be painted or etched on a window or be part of an awning. Signs consisting of other materials must be approved by the design review board.

3. The supporting structure of a sign shall not exceed the sign's height or width by more than 2 feet.

K. Maintenance. All signs, together with their supporting structures, shall be kept in good repair and maintenance. Signs shall be kept free from corrosion, peeling paint or other surface deterioration. The display surfaces of all signs shall be kept in a neat appearance.

L. Removal of Abandoned Sign. It is the responsibility of the property owner to remove any abandoned sign within 30 days of the cessation of its use.

M. Permanent Signs. Permanent signs are not allowed on undeveloped sites.

N. Sculpture. Sculpture that represents a business logo shall be considered a sign and shall meet the relevant sign requirements for the site on which is located.

O. Freestanding signs are subject to review by the design review board. The review shall be conducted as a nonhearing item. (Ord. 97-27 § 1; Ord. 97-4 § l; Ord. 94-20 § 1; Ord. 94-06 §§ 5—7; Ord. 92-11 § 52; Ord. 89-29 § 2; Ord. 89-3 § 1; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040) (4))

17.62.040 Regulations—Base zone.

A. C1, C2, and RM Zone Sign Requirements. For all uses and lots in the limited commercial (C1), general commercial (C2) and residential motel (RM) zones, the following number, sizes, and types of signs are allowed. All allowed signs must also be in conformance with the regulations in Chapter 17.62.030.

1. Total sign square footage permitted.

a. The total square footage of all signage associated with a lot shall not exceed 1 square foot of sign face area per lineal foot of site frontage.

b. The total square footage of all signage associated with a business shall not exceed 1 square foot of sign face area per lineal foot of business frontage up to a maximum of 36 square feet. Notwithstanding paragraph (a) above, each business is permitted a minimum of 20 square feet of sign face area e.g., there are 5 businesses located on a lot with 50 feet of site frontage. Paragraph (a) above would limit the total sign face area of all 5 businesses to no more than 50 square feet. However, this provision ensures that each of the 5 businesses would be permitted up to 20 square feet.

2. Freestanding Signs. Each lot is permitted 1 freestanding sign per site frontage. The maximum sign face for a freestanding sign is 24 square feet.

3. Signs Attached to Buildings.

a. A business or use shall have no more than 1 permanent sign, other than a freestanding sign, for each building frontage and the sign must be placed on the corresponding building frontage, e.g., a business with two building frontages cannot place both signs on one of the building frontages.

b. The maximum sign face area for an individual sign shall be no more than 24 square feet or one square foot of sign face area per lineal foot of business frontage, whichever is less.

4. Types of Signs. The following types of signs are permitted: permanent, freestanding, wall, projecting, window, awning, temporary, incidental and lawn signs.

B. Manufactured Dwellings and RV Park (MP), Park Management (PK), Institutional (IN), and Open Space/Recreation (OSR) Zone Sign Requirements. For all uses and lots in the manufactured dwelling and recreational vehicle park (MP), park management (PK), institutional (IN) and open space/recreational (OSR) zones, the following number, sizes, and types of signs are allowed. All allowed signs must also be in conformance with the regulations of Chapter 17.66.

1. Total Square Footage Permitted. The total square footage of all signage associated with a lot or business shall not exceed 36 square feet of sign face area.

2. Freestanding Signs. Each site is permitted 1 freestanding sign. The maximum sign face area for a freestanding sign is 24 square feet.

3. Signs Attached to Buildings.

a. A business or use shall have no more than 1 permanent sign, other than a freestanding sign, for each building frontage and the sign must be placed on the corresponding building frontage, e.g., a business with two building frontages cannot place both signs on one of the building frontages.

b. The maximum sign face area of an individual sign is no more than 24 square feet or 1 square foot of sign face per linear foot of business frontage, whichever is less.

4. Types of Signs. The following types of signs are permitted: permanent, freestanding, wall, projecting, window, awning, temporary, incidental, and lawn sign.

C. Residential Very Low Density (RVL), Lower Density (RL), Moderate Density Residential (RI), Medium Density Residential (R2), High Density Residential (R3), and Residential-Alternative/Manufactured Dwelling (RAM) Zones Sign Requirements. For all uses and lots in the residential very low density (RVL), lower density (RL), moderate density residential (R1), medium density residential (R2), high density residential (R3), and residential

alternative/manufactured dwelling (RAM) zones, the following number, sizes, and types of signs are allowed. All allowed signs must also be in conformance with the regulations of Chapter 17.66.

1. Total Square Footage Permitted. The total square footage of signage associated with a use or lot shall not exceed 10 square feet.

2. Types of Signs Permitted.

   a. A use or lot shall have no more than 1 incidental sign, with an area of no more than 2 square feet of sign face area.

   b. A use or lot shall have no more than 2 temporary and/or lawn signs and no temporary or lawn sign shall have an area of more than 4 square feet.

   c. The following types of signs are permitted: incidental, wall, projecting, window, temporary, and lawn signs.

D. E and OS Zones Sign Requirements. No sign shall be permitted in the estuary (E) and open space (OS) zones. (Ord. 92-11 § 53; Ord. 90-10 § 1 (Appx. A § 34); Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(5))

17.62.050 Exemptions.

The following signs are exempt from the provisions of this chapter:

A. Signs, other than neon signs, within a building not intended to be visible from the exterior of a building;

B. Signs legally erected in a street right-of-way;

C. Building numbers required by Chapter 15.08;

D. Three flags of national or state governments. (Ord. 94-06 § 8; Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(3))

17.62.060 Permits.

A. Sign Permits Required. A sign permit is required for the erection of any new permanent sign with a sign face area of 4 square feet or more or the alteration of the structure of an existing permanent sign in the C-1, C-2, RM, MP, PK, IN, or OSR zones.

B. Required Information for a Sign Permit. For purposes of review by the city, a scale drawing of the proposed sign shall be submitted. The drawing shall indicate the dimensions of the sign, location of the sign, any structural elements of the proposed sign, the size and dimensions of any other sign(s) located on the applicant's building or property, the color of the sign, the size and type of the sign's letters and the material of which the sign is to be constructed. (Ord. 14-3 § 1; Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(6))

17.62.070 Variances.

A. Variances to the sign requirements of this chapter may be approved by the planning commission following the procedures of Chapter 17.16 where the planning commission finds that the variance meets the following criteria:

1. The variance would permit the placement of a sign with an exceptional design, style, or circumstance;

2. The granting of the variance would not be detrimental to abutting properties; and

3. The granting of the variance would not create a traffic or safety hazard.

B. Applications which request a variance based on factors listed in subsection (A)(1) above shall be referred to the design review board for a recommendation on whether the applicable criterion is met. (Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(7))

17.62.080 Nonconforming signs.

For the purposes of this chapter, a nonconforming sign is defined as a sign existing at the effective date of the ordinance codified in this chapter which could not be erected under the terms of this chapter. The following requirements shall apply to nonconforming signs (the requirements of Section 17.88.040 are not applicable):

A. Any permanent nonconforming sign used by a business, or a business complex must be brought into conformance with the requirements of this chapter prior to any expansion or change in use which requires design review or a conditional use permit. No building permit for new construction shall be issued until this provision is complied with.

B. No permanent nonconforming sign may be enlarged in any way.

C. Should any permanent nonconforming sign be damaged by any means to an extent of more than 50 percent of its replacement costs at the time of damage, it shall be reconstructed in conformity with the provisions of this chapter.

D. Signs other than permanent signs, shall come into conformance with the requirements of the ordinance codified in this chapter, 90 days from the effective date of such ordinance.

E. Signs for which a variance has been granted by the city are exempt from the requirements of subsection A of this section. (Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(8))

17.62.090 Abandoned signs or signs in disrepair.

The city shall notify the owner of the real property where a sign has been abandoned or allowed to fall into disrepair, and shall require reasonable repair, replacement, or removal within 30 days. If compliance does not occur, the city is authorized to cause removal or repair of such signs, pursuant to Chapter 8.04. Expenses incurred in the enforcement of this provision shall be paid by the owner of the real property from which it was removed. (Ord. 90-10 § 1 (Appx. A § 35); Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(9))

17.62.100 Administration and enforcement.

A. The city shall provide each business license applicant with a current copy of its sign requirements.

B. A business license must be obtained before any sign for a business may be erected.

C. Signs may be transferable if the ownership of a business is changed. (Ord. 92-8 § 1; Ord. 89-29 § 2; Ord. 86-16 § 5; Ord. 79-4 § 1 (4.040)(10))

Figures 1 through 5, Chapter 17.62

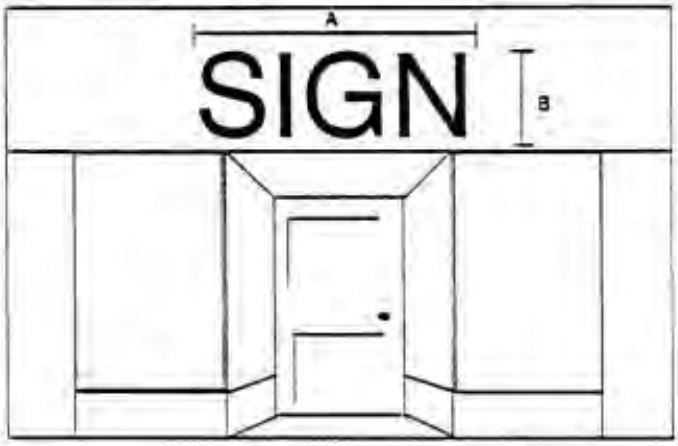
SIGN FACE MEASUREMENT

FIGURE 1:

SIGN FACE AREA = (A)(B)

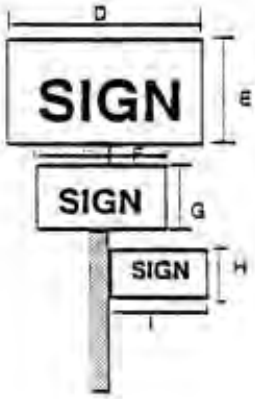
SIGN FACE AREA = ∏R²

FIGURE 2:



SIGN FACE AREA = (A)(B)

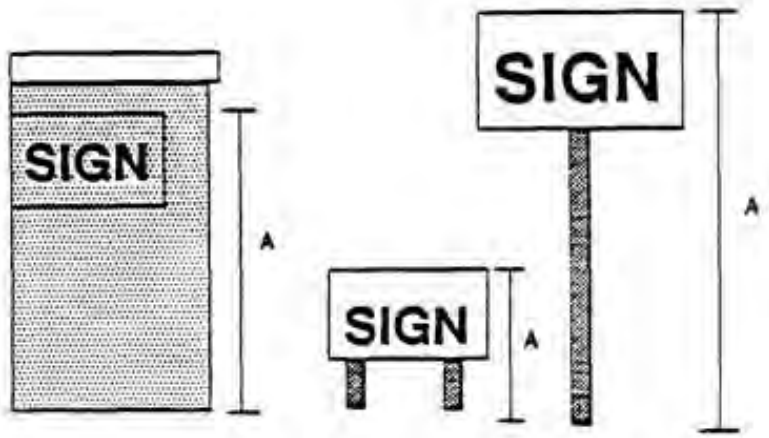
FIGURE 3:



SIGN FACE AREA =
(D)(E) + (F)(G) + (I)(H)

SIGN HEIGHT

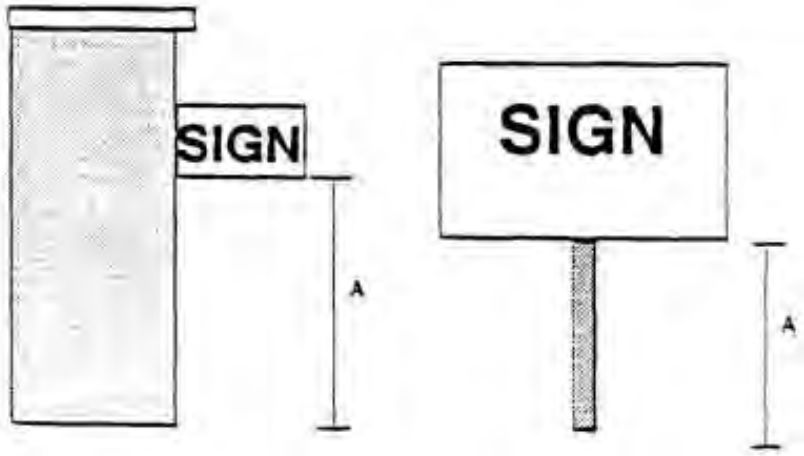
FIGURE 4:



A = HEIGHT

SIGN CLEARANCES

FIGURE 5:



A = CLEARANCE

Chapter 17.64 SETBACK REDUCTION

17.64.010 Provisions established.

A. Reduction of setback requirements without variance procedure but following the procedures required by Chapter 17.16 of this code may be approved by the planning commission where the following criteria are met:

1. Total building coverage shall not exceed 40 percent;

2. Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

3. The proposed building location will not interfere with solar access of buildings on adjoining property;

4. It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the planning commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:

   a. Tree protection,

   b. The protection of a neighboring property's views of the ocean, mountains, or similar natural features,

   c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,

   d. The provision of solar access,

   e. Permitting construction on a lot with unusual configuration,

   f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,

   g. Protection of a wetland or wetland buffer area, or

   h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.98.050 (A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the

required setback shall be considered only in the setback opposite of the required oceanfront setback;

5. Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

6. The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

7. Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

8. The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings. (Ord. 08-1 § 46; Ord. 94-29 § 4; Ord. 93-12 § 1; Ord. 92-21 § 1; Ord. 92-11 § 66; Ord. 90-10 § 1 (Appx. A § 39); Ord. 89-28 § 4; Ord. 89-3 § 1; Ord. 85-3 § 2; Ord. 79-4 § 1(4.300))

17.64.020 Conditions.

Conditions may be imposed in connection with the granting of the setback reduction where such conditions are deemed necessary to meet the setback reduction standards. (Ord. 08-1 § 46)

17.64.030 Compliance with approved plans and conditions of approval.

Adherence to the submitted plans, as approved, is required. Compliance with conditions of approval is also required. Any departure from approved plans or conditions of approval constitutes a violation of the ordinances codified in this title, unless modified by the planning commission at a public hearing, pursuant to Chapter 17.16. (Ord. 08-1 §46)

17.64.040 Time limit for approved setback reductions.

Authorization of a setback reduction shall be void after 1 year, or such lesser time period as the approval may specify, unless a building permit has been issued. However, when requested, the planning commission, at a public hearing conducted pursuant to Chapter 17.16, may extend authorization for an additional period not to exceed one year. (Ord. 08-1 § 46)

Chapter 17.66 BUFFERING AND SCREENING REQUIREMENTS

17.66.010 Purpose.

The purpose of the buffering and screening requirements is to reduce the impacts of a proposed use on sites of 30,000 square feet or greater on adjacent zones which provide for different types of uses. (Ord. 92-11 § 67 (1); Ord. 79-4 § 1 (4.400)(1))

17.66.020 Size of buffer.

A. A 20-foot buffer, measured horizontally from the property line, shall be required between land uses and specific zones as follows:

1. Commercial uses, except motels, when they abut an RVL, RL, R1, R2, R3, RM, RAM, MP, OSR, or IN zone;

2. Motels when they abut an RVL, RL, R1, R2, R3, RAM, or IN zone;

3. Multifamily structures containing three or more units when they abut an RVL, RL, R1, R2, RAM, or OSR zone;

4. Manufactured dwelling subdivision or manufactured dwelling park when it abuts an RVL, RL, R1, R2, R3, RM, or IN zone; or

5. Governmental uses and structures when they abut an RVL, RL, R1, R2, R3, or RAM zone.

B. The buffer area may only be occupied by screening, utilities, and landscaping materials. (Ord. 92-11 § 67 (2); Ord. 90-10 § 1 (Appx. A § 38); Ord. 79-4 § 1 (4.400)(2))

17.66.030 Type of screening.

A. The screening in the buffer area shall consist of at least 1 row of deciduous or evergreen trees or a mixture of each, not less than 8 feet high at the time of planting and spaced not more than 15 feet apart, and at least 1 row of evergreen shrubs spaced not more than 2.5 feet apart, which will grow to form a continuous hedge at least 5 feet in height within 3 years of planting, with lawns, low-growing evergreen shrubs or evergreen ground cover covering the balance of the buffer.

B. The design review board may reduce or waive the buffering requirement where it finds that due to topography, existing vegetation, or other site characteristics a reduced buffer area will achieve the purpose of the visual and physical separation of uses that is the intent of the buffer requirement. Proposals for a reduction in the depth of the buffer area

shall include a detailed plan and specifications for the proposed landscaping and screening. (Ord. 92-11 § 67 (3); Ord. 79-4 § 1 (4.400)(3))

Chapter 17.68 OFF-STREET PARKING

17.68.010 Requirements generally.

The following general provisions shall govern the application of off-street parking requirements:

A. The provision and maintenance of off-street parking is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking. The subsequent use of property for which the building permit is issued is conditional upon the unqualified continuance and availability of the amount of off-street parking required by this chapter. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing required off-street parking, it shall be a violation of this chapter to begin or maintain such altered use until the required increase in off-street parking is provided.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the approval authority based upon the requirements of 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 the several uses computed separately, unless evidence is presented to the satisfaction of the approval authority that the various uses will not be used simultaneously, thus not requiring that the required amount of off-street parking be the sum of the requirements of the several uses. Where the approval authority determines that various uses will not be used simultaneously, the it shall determine the amount of off-street parking to be provided.

D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking area where the amount of the off-street parking provided in such a joint use parking area is the sum of the required off-street parking for those several uses and where a deed restriction or covenant for the shared parking between the cooperating property owners is recorded with Clatsop County. The deed restriction or covenant shall be approved by the city manager and shall contain a provision that it cannot be modified or revoked without the approval of the city.

E. Off-street parking spaces for one or two-family dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located no farther than 200 feet from the building or use they are required to serve measured in a straight line from the

building, except that in the downtown commercial area the provisions of Section 17.40.050 (E) apply. For uses where parking is permitted within 200 feet of the intended use, the parking must be located in a zone which permits the use for which the parking is to be provided.

F. Required parking spaces shall be available for the parking of passenger vehicles of residents, customers, and employees of the use and shall not be used for storage of vehicles or materials.

G. A plan drawn to scale, indicating how the off-street parking requirements are to be met shall accompany an application for a building permit.

H. It is unlawful to charge a fee of any kind for the use of off-street parking spaces provided to meet the off-street parking requirements specified in Sections 17.68.020 and 17.40.050 (J)(1). Where such a fee was charged prior to the effective date of Ordinance 97-12, an amortization period of four months, from the effective date of Ordinance 97-25, is established. At the conclusion of the amortization period, charging a fee of any kind for the use of off-street parking spaces provided to meet the off-street parking requirement specified in Sections 17.68.020 and 17.40.050 (J)(1) shall be prohibited whether or not a fee was charged prior to the adoption of Ordinance 97-12. (Ord. 08-1 § 48; Ord. 97-25 § 1; Ord. 97-12 § 1; Ord. 89-3 § 1; Ord. 86-17 § 2; Ord. 86-16 § 10; Ord. 86-10 § 9; Ord. 84-10 § 2; Ord. 79-4 § 1 (5.030))

17.68.020 Off-street parking requirements.

A. At the time a structure is erected or enlarged or the use of a structure or parcel of land changes, off-street parking spaces shall be provided in accordance with this section and Sections 17.68.01, 17.68.030, and 17.68.040

B. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this section.

C. Where square feet are specified, the area measured shall be gross floor area, where gross floor area means the sum of the gross horizontal area of all floors of a building, as measured from the exterior walls of a building. Where employees are specified, persons counted shall be those working on the premises including the proprietors, during the largest shift at a peak season.

D. In determining the number of parking spaces required by this section, all fractions 0.5 or greater shall be rounded to the nearest whole number. (Example, if it is determined that 5.65 parking spaces are required, 6 off-street parking spaces must be provided. If it is determined that 5.25 parking spaces are required, 5 off-street parking spaces must be provided.)

Use	Parking spaces required
Retail and office	Downtown a. For structures existing as of July 6, 1995, existing off-street parking spaces which were required to meet the off-street parking requirement (1.5 parking spaces per 400 square feet of gross floor area), as per Ordinance 88-6, shall be retained; b. At the time an existing structure containing retail or office use is replaced or enlarged, off-street parking spaces shall be required for the proposed building's gross floor area which exceeds the existing building's gross floor area. The additional required off-street parking spaces shall be provided in accordance with the standard of 1 parking space per 400 square feet of gross floor area; c. At the time a new structure is erected on a parcel of land which did not contain a commercial use as of July 6, 1995, 1 parking space per 400 square feet of gross floor area shall be required; d. At the time an existing structure, which was not used for commercial purposes as of July 6, 1995, is converted to retail or office use, 1 parking space per 400 square feet of gross floor area shall be required. Midtown and Tolovana Park a. For structures existing as of December 2, 2004, existing off-street parking spaces, which were required to meet the use's off-street parking requirement (1.5 parking spaces per 400 square feet of gross floor area), as per Ordinance 88-6, shall be retained; b. At the time an existing structure containing retail or office use is replaced or enlarged, off-street parking spaces shall be required for the proposed building's gross floor area which exceeds the existing building's gross floor area. The additional required off-street parking spaces shall be provided in accordance with the standard of 1 parking space per 400 square feet of gross floor area;

Use	Parking spaces required	
	c. At the time a new structure is erected on a parcel of land which did not contain a commercial use as of December 2, 2004, 1 parking space per 400 square feet of gross floor area shall be required;	
	d. At the time an existing structure, which was not used for commercial purposes as of December 2, 2004, is converted to retail or office use, 1 parking space per 400 square feet of gross floor area shall be required.	
Motels and hotels	1-1/4 per unit and 2 for a manager's unit; 1 for each unit of 400 sq. ft. or less, as long as that unit has only 1 bedroom	
Recreational vehicle park and campground	1 per employee	
Residences	a. Single-family dwelling, two-family dwelling, and multiple family dwelling in condominium ownership: 2 per dwelling unit, except that 1 per dwelling unit is required for residences that are provided in conjunction with a commercial use where those residences constitute no more than 50% of the building area.	
	b. Multiple-family dwellings in other than condominium ownership:	
	Studio	1 per dwelling unit
	1 bedroom	1.25 per dwelling unit
	2 bedroom	1.5 per dwelling unit
	3 or more bedrooms	2 per dwelling unit
Group housing	1 per sleeping room	
Assisted living	1 per 2 residential units	
Schools, elementary	1 per employee or teacher	
Restaurants, bar, or lounge	Downtown	

Use	Parking spaces required
	1.5 parking spaces per 400 square feet of gross floor, except that 1 parking space per 400 square feet of gross floor area shall be required for: (1) additions to a restaurant, bar or lounge after July 6, 1995; or (2) a restaurant, bar or lounge on a parcel of land which did not contain a commercial use as of July 6, 1995; or (3) a restaurant, bar or lounge in a structure which was not used for commercial purposes as of July 6, 1995. Midtown 1.5 parking spaces per 400 square feet of gross floor area shall be required. Tolovana Park 1.5 parking spaces per 400 square feet of gross floor area shall be required.
Meeting rooms	One parking space per 100 square feet of gross floor area shall be required.
Limited manufacturing	1 per employee at the maximum shift.
Transient rental, vacation home rental	Per Section 17.77.040(A)(2)(e).
Similar uses or aggregate	To be evaluated on a case-by-case basis based on above standards.

(Ord. 11-02 § 1; Ord. 08-1 § 49; Ord. 04-11 § 5; Ord. 98-17 § 4; Ord. 92-11 § 69; Ord. 89-3 § 1; Ord. 88-6 § 2; Ord. 86-17 § 1; Ord. 86-16 § 8; Ord. 84-10 § 1; Ord. 79-4 § 1 (5.010))

17.68.030 Design standards.

A. The following design requirements shall apply to an off-street parking area consisting of five or more parking spaces:

1. Parking area layouts shall provide parking spaces and aisle dimensions that meet the minimum dimensions contained in Figure A, Minimum Design Requirements.

2. A parking space must be at least 9 feet by 18 feet. Where parallel parking spaces are provided, the minimum dimension is 9 feet by 22 feet.

3. Parking spaces for disabled persons shall be in accordance with the requirements of the Oregon Structural Specialty Code. These standards control: dimensions of disabled person parking spaces and access aisles; the minimum number of disabled person parking spaces required; location of disabled person parking spaces and circulation routes; curb cuts and ramps including slope, width, and location; and signage and pavement markings.

4. All parking areas must be designed so that a vehicle may enter or exit without having to move another vehicle. Stacked or tandem parking is not permitted.

5. At a minimum, 10 percent of the area of the parking lot shall be landscaped. In determining the area of the parking lot and required landscaping the minimum area separation between the building and the parking lot described in subsection (A)(6) of this section shall not be included. The landscaped area of the parking lot shall contain at least 1 tree for every 175 square feet of landscaping provided. Areas that contain a tree shall have a minimum width of 5 feet. Any landscaped area shall have a minimum area of 50 square feet.

6. An area with a minimum width of 5 feet shall separate the exterior wall of a building from the parking lot. The separation between the parking lot and the building can consist of landscaping material, a pedestrian walkway, or a combination of the two.

7. Provide separation and screening of the parking area from the street and abutting property. The separation can be provided by either a fence or a landscaped planting area. Where landscaping is utilized, the planting area shall have a minimum width of 3 feet. The height of the fence or planting shall be sufficient to screen the parking facility, but without encroaching into the required clear vision area.

8. When a parking area serving a multifamily, commercial, industrial, or governmental use abuts a residential zone, buffering meeting the requirements of Chapter 17.66 shall be provided.

9. The number of access points from the adjacent public street(s) to the parking area shall be limited to the minimum that will allow the property to accommodate the anticipated traffic. Access points shall be located on side streets or existing driveways wherever possible to avoid congestion of arterial or collector streets. The width of the access point(s) to the parking area shall comply with the standards of Municipal Code Section 12.08.040.

10. Maneuvering space (to prevent backing onto streets) shall be provided for all lots which provide access onto arterial streets (Hemlock Street, Sunset Boulevard, and US Highway 101).

11. Service drives 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 15 feet from their intersection.

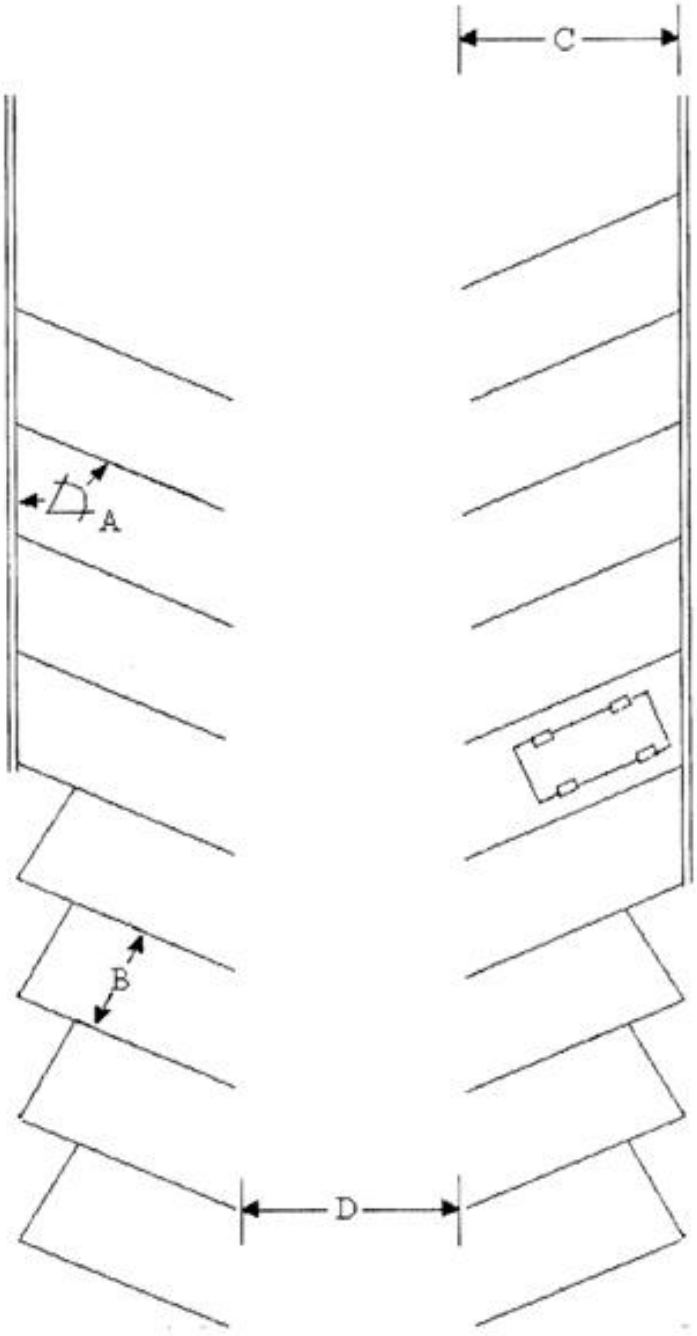
B. Areas for required off-street parking consisting of fewer than 5 parking spaces, which serve uses other than single-family dwellings, modular housing, manufactured homes, duplexes, or triplexes, shall comply with the standards of Section 17.68.030 (A)(1)—(4), (7), (9)–(11).

C. Areas for required off-street parking associated with single-family dwellings, modular housing, manufactured homes, accessory dwellings, duplexes, and limited triplexes, shall comply with the standards of Section 17.68.030 (A)(2), (9), (10).

Parking Minimum Design Requirements

Parking Angle	Standards			
	Minimum Stall Width	Minimum Stall Depth	Minimum Aisle Width	
			One-way	Two-way
0º	22’0”	9’0”	10’10”	18’0”
30º	9’	17’0”	12’0”	20’0”
45º	9’	17’4”	12’3”	20’0”
60º	9’	18’10”	14’4”	20’0”
70º	9’	19’2”	16’0”	21’6”
90º	9’	18’	22’6”	22’6”
A	B	C	D	D

A. Parking Angle
B. Stall Width
C. Stall Depth
D. Aisle Width



(Ord. 08-1 § 50)

* Prior ordinance history: Ords. 86-16, 79-4.

17.68.040 Improvement standards.

A. The following improvement standards shall apply to off-street parking areas, except for those associated with single-family dwellings, modular housing, manufactured homes, accessory dwellings, duplexes, and limited triplexes:

1. The surface material shall be an approved hard surface such as asphalt, concrete, or pavers.

2. The parking lot shall be clearly marked as to parking stalls, traffic flow, and handicapped spaces.

3. Wheel stops shall be provided for each parking space.

4. Planting areas shall be defined by the use of curbing or other approved material.

5. A stormwater runoff system approved by the public works department shall be installed.

6. No pole mounted lighting shall exceed a height of 15 feet. All lighting shall be shielded so that direct illumination is confined to the property boundaries of the light source. (Ord. 08-1 § 51)

Chapter 17.70 DESIGN REVIEW

17.70.010 Purpose.

A. The purpose of design review is to exercise aesthetic judgment over development projects within the city in order to maintain the desirable character of the community. The community character is defined by having charm in the design of buildings, keeping buildings small in scale, honoring the beauty and ecology of the city's natural setting, and recognizing that the arts are an integral part of the community.

B. This broad purpose is furthered by the following specific purposes of design review:

1. To implement the goals and policies of the comprehensive plan;

2. To foster development that is designed, arranged and constructed in a manner that provides a safe, efficient and aesthetically pleasing community asset;

3. To encourage originality and creativity in site design, architecture and landscape design;

4. To ensure that the arrangement of all functions, uses and improvements of a development reflect the natural capabilities and limitations of its site and adjacent property;

5. To encourage development where the various structures, use areas and site elements are integrated in a manner that is visually harmonious;

6. To ensure that development maintains and strengthens the city's sense of place which is defined by its location adjacent to the Pacific Ocean, Ecola Creek, and the surrounding mountains; and

7. To encourage landscape design which complements the natural landscape, improves the general appearance of the community, and enhances specific elements of the built environment. (Ord. 90-3 § 15)

17.70.020 Applicability.

The following shall be subject to the provisions of this chapter:

A. All new construction or new development except for single-family residence, mobile home, modular home and their accessory structures;

B. Any exterior alteration to an existing nonresidential use except for alterations which are determined to be minor, pursuant to Section 17.70.110 (B);

C. Any alteration of site improvements, such as exterior lighting, landscaping or off-street parking, in conjunction with an existing nonresidential use, except for alterations which are determined to be minor, pursuant to Section 17.70.110 (B);

D. Any exterior alteration to an existing duplex, triplex or multifamily structure except for alterations which are determined to be minor, pursuant to Section 17.70.110 (B);

E. Public Improvements.

1. Street improvements that involve design elements such as landscaping, lighting, sidewalks, or street furniture, but not including benches that are proposed pursuant to the city's commemorative gift policy,

2. Installation of street furniture such as bike racks, benches, or trash receptacles, but not including benches that are proposed pursuant to the city's commemorative gift policy,

3. Improvements affecting the visual appearance of the beach such as beach access improvement and storm drainage outfalls but not including benches that are proposed pursuant to the city's commemorative gift policy,

4. Sidewalks, both new and reconstruction of existing sidewalks,

5. Off-street parking for public use,

6. New park projects or major improvements to existing parks but not including improvements that are proposed pursuant to the city's commemorative gift policy, and

7. Street lighting projects that involve the installation of a different type of light fixture, or a new level of illumination, or a different spacing of light fixtures. (Ord. 14-6 § 1; Ord. 05-14 § 1; Ord. 02-18 § 1; Ord. 92-11 §§ 55, 56; Ord. 90-3 § 15)

17.70.030 Design review plan—When approval is required.

Design review plan approval, as specified by this chapter, shall be required prior to:

A. Site clearance activities such as tree removal, grading, excavation, or filling; and

B. The issuance of a building permit. The plan for which a building permit is issued shall conform in all aspects to the plan that has approval through the design review process. Where building plans do not conform to the approved design review plan, the city shall determine, pursuant to Section 17.70.110, whether the alteration or modification is a major or minor change. If it is determined that the modification is a major change, the modification shall be reviewed according to the requirements of Sections 17.70.040 and 17.70.050. If it is determined that the modification is a minor change, the city may proceed with the issuance of a building permit. (Ord. 90-3 § 15)

17.70.040 Design review plan—review procedure.

Design review application shall be reviewed by the design review board as a Type III application according to the requirements in Article II.

17.70.050 Design review plan—submittal requirements.

A. Information Requirements. Information provided on the design review plan shall conform to the following:

1. Drawings depicting the proposal shall be presented on sheets not larger than 24 inches by 36 inches in the number of copies directed by the city; and

2. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned.

B. Site Analysis Diagram. This element of the design review plan, which shall be to scale, shall indicate the following site characteristics:

1. Location and species of trees greater than 6inches in diameter when measured 4.5 feet above the natural grade, and an indication of which trees are to be removed;

2. On sites that contain steep slopes, potential geologic hazard or unique natural features that may affect the proposed development, the city may require contours mapped at 2-foot intervals;

3. Natural drainageways and other significant natural features;

4. All buildings, roads, retaining walls, curb cuts, and other manmade features;

5. Natural features, including trees and structures on adjoining property having a visual or other significant relationship with the site; and

6. Location and species of trees greater than 6 inches DBH on adjoining property that, in the judgment of the applicant's certified arborist, might be damaged by construction activity on the subject property. Alternatively, in the absence of a report by a certified arborist, all trees on adjoining property within one tree protection zone of the common boundary line, and all trees on adjoining street right-of-way if within one tree protection zone of the subject property.

C. Site Photographs. Photographs depicting the site and its relationship to adjoining sites shall also be provided.

D. Site Development Plan. This element of the design review plan shall indicate the following:

1. Legal description of the lot;

2. Boundary dimensions and area of the site;

3. Location of all new structures and existing structures proposed to be retained, including their distances from the property line;

4. Area of the site covered by the structures described in subdivision 3 of this subsection and their percentage of the site;

5. All external dimensions of proposed buildings and structures;

6. The location of a building's windows, doors, entrances and exits;

7. Parking and circulation areas, including their dimensions;

8. Service areas for such uses as the loading and delivery of goods;

9. Locations, descriptions and dimensions of easements;

10. Grading and drainage plans, including spot elevations and contours at close enough intervals to easily convey their meaning;

11. Location of areas to be landscaped;

12. Private and shared outdoor recreation areas;

13. Pedestrian circulation;

14. The location of mechanical equipment, garbage disposal areas, utility appurtenances and similar structures;

15. Exterior lighting including the type, intensity, height above grade and area to be illuminated;

16. Location, size and method of illumination of signs;

17. Provisions for handicapped persons;

18. Other site elements which will assist in the evaluation of site development;

19. The location and names of all existing streets within or on the boundary of the proposed development; and

20. A written summary showing the following:

    a. For commercial and nonresidential development:

        I. The square footage contained in the area proposed to be developed,

        II. The percentage of the lot covered by structures,

        III. The percentage of the lot covered by parking areas and the total number of parking spaces,

IV. The total square footage of all landscaped areas including the percentage consisting of natural materials and the percentage consisting of hard-surfaced areas such as courtyards,

b. For residential development:

I. The total square footage in the development,

II. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, e.g., 10 one-bedroom, 25 two-bedroom, etc.),

III. Percentage of the lot covered by:

(A) Structures,

(B) Parking areas,

(C) Recreation areas,

(D) Landscaping.

E. Landscape Plan. Development proposals with a total project cost exceeding $250,000 shall have the landscape plan prepared by a licensed landscape architect or licensed landscape contractor. This element of the design review plan should indicate the following:

1. The size, species and locations of plant materials to be retained or placed on the site;

2. The layout of proposed irrigation facilities;

3. The location and design details of walkways, plazas, courtyards and similar seating areas, including related street furniture and permanent outdoor equipment including sculpture;

4. The location, type and intensity of lighting proposed to illuminate outdoor areas;

5. The location and design details of proposed fencing, retaining walls and trash collection areas; and

6. For commercial projects with a total project cost exceeding $250,000, a rendering showing the proposed landscape plan in perspective. Such renderings shall be prepared for each of the project's main elevations.

F. Architectural Drawings. This element of the design review plan shall indicate the following:

1. A plan specifying the building footprint and dimensions, including all points of access. Floor plans of interior spaces to the extent required to clarify access functions and the relationship of such spaces to decks, porches, balconies, and stairs or other features shown on the building elevations. Such floor plans shall be provided for all building floors and shall include appropriate dimensions;

2. Exterior elevations showing finish materials, windows, doors, light fixtures, stairways, balconies, decks, and architectural details. These elevations shall be provided for every exterior wall surface, including those which are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevations of floors indicated and a dimension showing compliance with height limitations;

3. The color and texture of finish materials shall be described on the drawings and samples shall be submitted of the materials and color ranges of siding, roofing, and trim;

4. Location and type of exterior light fixtures including the lamp types and the levels of illumination that they provide; and

5. A comprehensive graphic plan showing the location, size, material, and method of illumination of all exterior signs. At the applicant's option, this plan may be submitted for approval at any time prior to the issuance of occupancy permits.

G. Architectural Model.

1. Architectural models shall be submitted for:

   a. All new construction, other than duplexes or triplexes,

   b. Alterations to existing structures other than duplexes or triplexes where the proposed alteration involves the addition of 1,000 square feet of gross floor area or more;

2. The model shall be to scale and represent the proposed development and adjoining buildings within 50 feet of applicant's property lines; and

3. The model need only be a massing model sufficient to illustrate the relationship of the proposed structure(s) to the site and surrounding properties.

H. Energy Conservation Measures.

1. A description of the method and type of energy to be used for heating and cooling of the building; and

2. An explanation of the energy use and strategy being used to minimize the amount of energy needed to heat, cool, and light the structure.

I. Property Survey.

1. A survey of the property by a licensed land surveyor clearly delineating property boundaries. The city may waive this requirement where there is a recent survey which can be used to establish the applicant's property boundaries; and

2. Prior to the design review board meeting, the applicant will have clearly marked the corners of proposed buildings and other significant features proposed for the site. (Ord. 19-3 § 1; Ord. 14-6 § 2; Ord. 97-28 §

1; Ord. 94-06 § 3; Ord. 92-11 § 58; Ord. 90-3 § 15)

17.70.060 Design review criteria—Purpose.

To ensure that the stated purposes of the design review process are met, the design review board shall be governed by the criteria of Sections 17.70.070 through 17.70.100 as they evaluate and render a decision on a proposed design review plan. (Ord. 90-3 § 15)

17.70.070 Design review criteria—Statement of intent.

A. The design review criteria are intended to provide a frame of reference for the applicant in the development of site, building and landscape plans, as well as providing the city with a means of reviewing proposed plans. These criteria are not intended to be inflexible requirements, nor are they intended to discourage creativity. The specification of one or more architectural styles is not intended by these criteria.

B. The design review board is not authorized, as part of the design review process, to approve projects which exceed specific development standards provided for by the zoning ordinance (e.g., building height or building setback), except the design review board may approve proposals exceeding the lumen limits in Section 17.70.150 provided that all exterior lighting on the subject property is either: (a) fully shielded relative to all adjoining residentially-zoned property; or (b) fully compliant with the maximum backlight/uplight/glare standards in Table B.

C. Potential full development of a site based solely on the standards of the zoning ordinance (e.g., building height, building setback, number of permitted motel units) may be inappropriate for a given site. It is for this reason that the design review board is specifically delegated the discretion, through the application of the design review criteria, to require building or site designs which may or may not result in the potential full development authorized by the zoning ordinance.

D. The design review board, in making its determination of compliance with the design review criteria, shall consider the effect of their action on the availability and cost of needed affordable housing. The design review criteria shall not be used to exclude needed affordable housing types. However, this consideration shall not prevent the imposition of conditions necessary for a proposal to conform to the design review criteria. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this chapter. The design review board shall have no authority to affect dwelling unit density. (Ord. 14-6 § 3; Ord. 90-3 § 15)

17.70.080 Site design evaluation criteria.

The following criteria shall be used in evaluating site development plans. The number adjacent to the criterion represents the relative importance of that criterion, with "3" being the most important:

A. The arrangement of all functions, uses, and improvements has been designed so as to reflect and harmonize with the natural characteristics and limitations of the site and adjacent sites (x3).

B. In terms of setback from the street or sidewalk, the design creates a visually interesting and compatible relationship between the proposed structures and/or adjacent structures (x3).

C. The design incorporates existing features such as streams, rocks, slopes, vegetation (i.e., making use of a small stream rather than placing it in a culvert) (x3).

D. If the project is unusually large, or if it is located so as to become part of an introduction/transition to the city or to a particular district or to the beach, the design acknowledges the special impact the project would have on the entire community by addressing these design criteria in an exemplary, standard-setting manner (x3).

E. Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining landscaping/open space in order to create a pedestrian pathway and/or open system that connects several properties (x2).

F. The arrangement of the improvements on the site do not unreasonably degrade the scenic values of the surrounding area (x2).

G. The improvements on the site enhance and/or do not deny solar access, light, or air within the site or to adjacent sites or structures (x2).

H. Where appropriate, the design includes a parking and circulation system that encourages a pedestrian rather than vehicular orientation, including a separate service area for delivery of goods (x2).

I. The arrangement of the improvements on the site does not unreasonably block or greatly degrade scenic vistas enjoyed from neighboring (especially public) sites (x2).

J. The various functions and elements of the site design have been integrated into a unified whole, except in those cases where separation is appropriate. The overall design is visually harmonious when viewed either from within the site or from outside the site (x2).

K. The design gives attention to the placement of storage or mechanical equipment so as to screen it from view (x1).

L. If the project is adjacent to, or visible from, US Highway 101, the design minimizes its visual impact on the scenic character of Highway 101 (x1).

M. The arrangement of functions, uses and improvements on the site have been designed to provide access to and within the site for individuals with disabilities (x1).

(Ord. 02-2 § 1; Ord. 94-06 § 4; Ord. 90-3 § 15)

17.70.090 Architectural design evaluation criteria.

The following criteria shall be used in evaluating architectural designs. The number adjacent to the criterion represents the relative importance of that criterion, with “3” being the most important:

A. The design avoids either monotonous similarity or excessive dissimilarity with existing structures, or structures for which a permit has been issued, in its section of town (i.e., downtown, midtown, etc.). If the development includes multiple structures, the design avoids either monotonous similarity or excessive dissimilarity between the component structures (x3).

B. The size, shape and scale of the structure(s) are architecturally compatible with the site and with the surrounding neighborhood. The structure is sufficiently modest in scale to enhance the village character of the community(x3).

C. The proposed materials and colors are compatible with the character and coastal setting of the city (x3).

D. The design avoids monotony and provides visual interest and charm by giving sufficient attention to architectural details and to such design elements as texture, pattern, and color (x3).

E. If the project includes a large structure or structures, such as a large motel or condominium, the design avoids a monolithic expanse of frontages and rooflines and diminishes the massing of the buildings by breaking up building sections, or by the use of such elements as variable planes, projections, bays, dormers, setbacks, or changes in the roofline (x3).

F. If the project is unusually large, or if it is likely to become a village landmark, or if it is located so as to become part of an introduction/ transition to the city or to a particular district or to the beach, the design acknowledges the special impact the project would have on the entire community by addressing the design criteria in an exemplary, standard-setting fashion (x3).

G. The height of the structure(s) is architecturally compatible with the site and the surrounding neighborhood. The height of the structures contributes to the village scale (x2).

H. The height of the structure(s) is such that it does not unreasonably destroy or degrade the scenic values of the surrounding area (x2).

I. The height of the structure(s) is such that it does not unreasonably block or greatly degrade the views of scenic vistas as seen from neighboring sites (x2).

J. The height of the structure(s) is such that it does not unreasonably deny solar access, light, or air to an adjacent structure, on or off the site (x2).

K. The design sufficiently addresses the relationship of the structure(s) to the sidewalk and to pedestrian activity so as to foster human interaction (x2).

L. The proposed signage harmonizes with the other structures in terms of form, materials, and scale (x2).

M. Lighting fixtures: (1) are compatible with the architectural design; (2) produce illumination sufficiently subdued to be compatible with the village character; (3) avoid casting glare on adjoining property; (4) are sufficient for night-time safety, utility, security, and commerce; and (5) do not exceed the illumination values in the table at Section 17.70.150 (x2).

N. The project incorporates design elements or building improvements which result in the conservation of energy (x2).

O. The design of the project ensures continued privacy for the occupants of adjacent structures (x1). In cases of multifamily housing, this item is to be rated as x3.

(Ord. 14-6 § 4; Ord. 90-3 § 15)

17.70.100 Landscape design evaluation criteria.

The following criteria shall be used in evaluating landscape plans. The number adjacent to the criterion represents the relative importance of that criterion, with "3" being the most important:

A. The design substantially complements the natural environment of Cannon Beach and the character of the site (x3).

B. The design harmonizes with and enhances the architectural design (x3).

C. The landscape design acknowledges the growing conditions for this climatic zone and the unique requirements that its specific site location makes upon plant selection (i.e., salt, wind and wind exposure, soil condition, light, shade, etc.) (x3).

D. Provision has been made for the survival and continuous maintenance of the landscape and its vegetation (x3).

E. Where it is desirable to do so, the design provides amenities for the public (x3).

F. The design makes use of existing vegetation and incorporates indigenous planting materials (x2).

G. The selection and arrangement of plant materials provides visual interest by the effective use of such design elements as color, texture and size differentiation (x2).

H. The hard surface portion of the design makes use of visually interesting textures and patterns (x2).

I. Where it is desirable to do so, the design provides visual interest through the creation of a variety of elevations (x2).

J. The design contributes to the stabilization of slopes, where applicable (x2).

K. The design successfully delineates and separates use areas, where it is desirable to do so (x2).

L. The lighting fixtures and level of illumination are compatible with the landscape design. The level of illumination produced enhances the overall project and does not cast glare on adjacent property or into the night sky (x2).

(Ord. 14-6 § 5; Ord. 90-3 § 15)

17.70.110 Revision of approved plans.

Construction documents (i.e., drawings and specifications) shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review the modification. The city manager and the chair of the design review board shall review the proposed modification to determine whether it constitutes a "major" or "minor" revision of the approved plans.

A. Major Modifications.

1. Major modifications are those which result in a significant change in the approved plan.

2. The following are examples of major modifications:

a. Changes to the siting of a building;

b. Modification of the areas to be landscaped; and

c. Modifications to a plan element that was the subject of a design review board condition.

3. If the city determines that the proposed change is a major modification, the proposed alteration shall be reviewed in the same manner as a new application.

B. Minor Modifications.

1. Minor modifications are those which result in an insignificant change in the approved plan.

2. The following are examples of minor modifications:

a. Limited dimensional or locational changes to building elements such as windows or doors;

b. Changes in building materials where only a limited area is affected; and

c. Substitution of landscape materials which do not affect the overall landscape design.

3. If the city determines that the proposed change is a minor modification, the city will proceed with the review of the construction documents or changes in construction. (Ord. 90-3 § 15)

17.70.110 Landscaping standards.

The following landscape requirements are established for developments subject to design review plan approval:

A. Area Required. The following minimum lot area shall be landscaped for the following uses:

1. Duplexes and triplexes: 40 percent;

2. Multifamily dwellings containing four or more units: 30 percent;

3. Nonresidential uses (e.g., commercial, industrial, governmental): 20 percent.

B. Landscaping Defined.

1. The required landscaping for duplexes, triplexes, and multifamily dwellings described in Section 17.70.120 (A) shall consist of living plant material such as trees, shrubs, groundcover, flowers and lawn. Except for areas under roof eaves as defined by Section 17.60.070 (A), an area designated as landscaping must be open to the sky; areas under covered walkways, sky bridges and similar covered structures are not included in the calculation of landscaped area.

2. The required landscaping for nonresidential uses described in Section 17.70.120 (A) shall include any combination of the following materials: living plant material such as trees, shrubs, groundcover, flowers, and lawn; and hard surfaced materials such as benches, walkways, courtyards, outdoor seating areas, and artificial turf. Living plant material shall constitute a minimum of fifty percent of the total required landscaping area. Except for areas under roof eaves as defined by Section 17.60.070 (A), an area designated as living plant material must be open to the sky; areas under covered walkways, sky bridges and similar covered structures cannot be included in the calculation of the landscaped area consisting of living plant material. Landscaped areas consisting of hard surfaced material, as described above, must also be open to the sky, except for areas under roof eaves as defined by Section 17.60.070 (A). However, the area of a porch, defined as a structure that projects from the exterior wall of a building and is covered by a roof and is adjacent to a sidewalk, may be included in the computation of hard surfaced landscape area.

C. Maintenance of Existing Vegetation. Existing site vegetation shall be utilized to the maximum extent possible consistent with building placement and the proposed landscape plan.

D. Parking Lots. Parking areas shall be landscaped in accordance with the requirements of Section 17.68.030 (5)—(7).

E. Buffering and Screening. Buffering and screening areas shall conform to the requirements of Chapter 17.66.

F. Grading. The grading and contouring of the site, and on-site drainage facilities, shall be designed so there is no adverse effect on neighboring properties or public rights-of-way.

G. Plant Material Installation Standards.

1. Landscape plant materials will be installed to current nursery industry standards (OAN).

2. Landscape plant materials shall be properly guyed and staked to current industry standards. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.

3. Deciduous trees shall be fully branched, have a minimum caliper of 1.5 inches and a minimum height of 8 feet at the time of planting.

4. Evergreen trees shall have a minimum size of 6 feet in height, fully branched, at the time of planting.

5. Shrubs shall be supplied in 1-gallon containers or 8-inch burlap balls with a minimum spread of 12 inches. Shrubs shall be planted on a maximum of 30 inches on center.

6. Groundcover shall be supplied in either of the following quantities:

   a. Four-inch containers planted on a maximum of 18 inches on center or between rows; or

   b. Two and one-fourth-inch containers planted on a maximum of 12 inches on center or between rows.

7. Rows of plants should be staggered for more effective coverage.

H. Irrigation. All landscaping areas for uses other than duplexes or triplexes shall be irrigated or shall be certified, by a licensed landscape architect, licensed landscaper, or

nurseryperson, that they can be maintained and survive without artificial irrigation. If the plantings fail to survive, it is the responsibility of the property owner to replace them.

I. Maintenance. All landscaping approved as part of a design review plan shall be continuously maintained including necessary watering, weeding, pruning and replacement of plant materials. As part of design review approval, the design review board may require the execution of a contract for the maintenance of landscaped areas.

J. Lighting. Lighting shall be subdued. Low-intensity ground lights for walking or parking areas are preferred. No pole-mounted light shall exceed a height of 15 feet.

K. Artificial turf may be used as an element of a landscape plan, subject to the following limitations:

1. Artificial turf shall be counted as hardscape, not living plant material, in any calculation of landscape coverage; and

2. Artificial turf shall be used only in those parts of a landscape plan not normally visible to the general public from public sidewalks, streets, or from other public spaces. (Ord. 17-3 § 1; Ord. 08-1 §§ 41, 42; Ord. 90-3 § 15)

17.70.120 Performance assurance.

A. Landscaping or other site improvements required pursuant to an approved design review plan shall be installed prior to the issuance of certificate of occupancy or final inspection, unless the property owner submits a performance assurance device committing the installation of landscaping or other site improvement within 6months. In no case shall the property owner delay performance for more than 6 months.

B. Performance assurance devices shall take the form of one of the following:

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

2. Cash;

3. A letter of credit approval by the city attorney from a financial institution stating that the money is held for the purpose of development of the landscaping or other specified site improvement.

C. If a performance assurance device is employed, the property owner shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining undone at the expiration of the assurance device.

D. If the property owner fails to carry out provisions of the agreement and the city has reimbursable costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the city, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the property owner shall be liable to the city for the difference. (Ord. 90-3 § 15)

17.70.130 Exterior lighting standards.

Exterior lighting authorized under this chapter shall meet the requirements of this section. Three methods for determining the maximum allowable illumination are provided. The choice between these three methods is the applicant's.

A. Parking Space Method. An outdoor lighting installation complies with this section if it meets the requirements of subsections 1, 2, and 3, below. The parking space method is applicable only to nonresidential outdoor lighting, and only to sites with 10 or fewer off-street parking spaces.

1. Total Site Lumen Limit. The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be limited to 630 lumens per off-street parking space, including handicapped-accessible spaces. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

2. Limits to Off-Site Impacts. All luminaires shall be rated and installed according to Table B.

3. Light Shielding for Parking Lot Illumination. All parking lot lighting shall have no light emitted above 90 degrees.

B. Hardscape Method. An outdoor lighting installation complies with this section if it meets the requirements of subsections 1, 2, and 3, below.

1. Total Site Lumen Limit. The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using Table A. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires.

2. Limits to Off-Site Impacts. All luminaires shall be rated and installed according to Table B.

3. Light Shielding for Parking Lot Illumination: All parking lot lighting shall have no light emitted above 90 degrees.

C. Performance Method. An outdoor lighting installation complies with this section if it meets the requirements of subsections 1 and 2, below.

1. Total Site Lumen Limit. The total installed initial luminaire lumens of all lighting systems on the site shall not exceed the allowed total initial site lumens. The maximum allowed total initial site lumens shall not exceed the sum of base lumens, as determined under subsection (a), plus any applicable additional lumens allowed under Table C. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens of all is calculated as the sum of the initial luminaire lumens for all luminaires.

   a. Base Lumens. Two and one-half lumens per square foot of site area, up to a maximum of 7,000 lumens.

2. Limits to Off-Site Impacts. All luminaires shall be rated and installed using either Option A or Option B. Only one option may be used per permit application.

   a. Option A. All luminaires shall be rated and installed according to Table B.

   b. Option B. The entire outdoor lighting design shall be analyzed using industry standard lighting software including inter-reflections in the following manner:

      i. Input data shall describe the lighting system including luminaire locations, mounting heights, aiming directions, and employing photometric data tested in accordance with IES guidelines. Buildings or other physical objects on the site within 3 object heights of the property line must be included in the calculations.

      ii. Analysis shall utilize an enclosure comprised of calculation planes with zero reflectance values around the perimeter of the site. The top of the enclosure shall be no less than 33 feet (ten meters) above the tallest luminaire. Calculations shall include total lumens upon the inside surfaces of the box top and vertical sides and maximum vertical illuminance (footcandles and/or lux) on the sides of the enclosure. The design complies if:

         (A) The total lumens on the inside surfaces of the virtual enclosure are less than 15 percent of the total site lumen limit; and

         (B) The maximum vertical illuminance on any vertical surface does not exceed 0.3 foot-candles or 3.0 lux.

Table A. Allowed Total Lumens per Site for Nonresidential Outdoor Lighting, Hardscape Area Method. May be used for any project. When lighting intersections of site drives and public streets or roads, a total of six hundred square feet for each intersection may be added to the actual site hardscape area to provide for intersection lighting.	
Base Allowance per square foot of hardscape	2.5 lumens per square foot
Additional Allowance, Outdoor Sales Lots. This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking, or other non-sales areas. To use this allowance, luminaires must be within two mounting heights of sales lot area.	8 lumens per square foot
Additional Allowance, Outdoor Sales Frontage. This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two adjacent sides provided that a different principal viewing location exists for each side. In order to use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.	1,000 lumens per lineal foot
Drive Up Windows. In order to use this allowance, luminaires must be within 20 feet horizontal distance of the center of the window.	4,000 lumens per drive-up window
Vehicle Service Station. This allowance is lumens per installed fuel pump or per electric vehicle charging station.	8,800 lumens per pump or charging station

Table B. Maximum Allowable Backlight, Uplight and Glare (BUG) Ratings. May be used for any project. A luminaire may be used if it is rated for the lighting zone of the site or lower in number for all ratings B, U and G. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming in the field shall not be permitted, except as allowed under Note 2.				
Maximum Allowed Backlight Rating	More than 2 mounting heights from property line: B4	1 to 2 mounting heights from property line: B3	Less than 1 but more than 0.5 mounting heights from property line: B2	Property line to 0.5 mounting height from property line: B0
Maximum Allowed Uplight Rating	U2			
Maximum Allowed Glare Rating	Any luminaire mounted with its backlight perpendicular to the nearest property line: G2	Any luminaire not ideally oriented with respect to a property line of concern, 1 to 2 mounting heights from the nearest property line: G1	Any luminaire not ideally oriented with respect to a property line of concern, less than 1.0 mounting heights from the nearest property line: G0	
Notes:				
1. For purposes of determining Glare Rating, any luminaire not mounted with its backlight perpendicular to the nearest property line is not ideally mounted.				
2. Unrated luminaires may be used, but must be fully-shielded, positioned in a downcast orientation, and mounted with its backlight perpendicular to the nearest property line. Adjustable mounting devices may be used to meet these requirements.				

Table C. Performance Method Additional Initial Luminaire Lumen Allowances.	
Rows 1 through 6: Additional lumen allowances for all buildings except service stations and outdoor sales facilities. A maximum of three (3) additional allowances are permitted.	
1. Building Entrances and Exits. This allowance is per door. To use this allowance, luminaires must be within 20 feet of the door.	2,000 lumens
2. Building Façades: This allowance is lumens per unit area of building façade that are illuminated. To use this allowance, luminaires must be aimed at the façade and capable of illuminating it without obstruction.	8 lumens per square foot
3. Sales or Non-Sales Canopies. This allowance is lumens per unit area for the total area within the drip line of the canopy. To qualify for this allowance, luminaires must be located under the canopy.	6 lumens per square foot
4. Guard Stations. This allowance is lumens per unit area of guardhouse plus 2,000 sf per vehicle lane. To use this allowance, luminaires must be within 2 mounting heights of a vehicle lane or the guardhouse.	12 lumens per square foot
5. Outdoor Dining. This allowance is lumens per unit area for the total illuminated hardscape of outdoor dining. To use this allowance, luminaires must be within 2 mounting heights of the hardscape area of outdoor dining.	5 lumens per square foot
6. Drive Up Windows. This allowance is lumens per window. To use this allowance, luminaires must be within 20 feet of the center of the window.	4,000 lumens per drive-up window
Rows 7 and 8: Additional lumen allowances for service stations only. Service stations may not use any other additional allowances.	
7. Vehicle Service Station Hardscape. This allowance is lumens per unit area for the total illuminated hardscape area less area of buildings, area under canopies, area off property, or areas obstructed by signs or structures. To use this allowance, luminaires must be illuminating the hardscape area and must not be within a building, below a canopy, beyond property lines, or obstructed by a sign or other structure.	8 lumens per square foot
8. Vehicle Service Station Canopies. This allowance is lumens per unit area for the total area within the drip line of the canopy. To use this allowance, luminaires must be located under the canopy.	5 lumens per square foot
Rows 9 and 10: Additional lumen allowances for outdoor sales facilities only. Outdoor sales facilities may not use any other additional allowances. Lighting permitted by these allowances shall employ controls extinguishing this lighting after a curfew time to be determined by the city.	
9. Outdoor Sales Lots. This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking or other nonsales areas and shall not exceed 25% of the	8 lumens per square foot

Table C. Performance Method Additional Initial Luminaire Lumen Allowances.	
total hardscape area. To use this allowance, luminaires must be within 2 mounting heights of the sales lot area.	
10. Outdoor Sales Frontage. This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two adjacent sides provided that a different principal viewing location exists for each side. To use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area.	1,000 lumens per lineal foot

(Ord. 17-3 § 1; Ord. 14-6 §§ 6, 7)

Chapter 17.72 ACCESSORY USES GENERALLY

17.72.010 Compliance with principal use requirements.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the limitations set forth in Sections 17.72.020 through 17.72.060 (Ord. 86-16 § 4; Ord. 79-4 § 1 (4.010))

17.72.020 Fences.

Fences shall be subject to the following standards:

A. In any required front yard, fences shall not exceed 3.5 feet in height except that an entry area or arbor with a maximum height of eight feet may be permitted where: its length is no more than 20 percent of the site frontage, up to a maximum of 10 feet, and its depth is no more than 5 feet; the structure is part of a fence or constitutes a pedestrian entry; the structure is constructed of wood; and the structure is not located in a required clear-vision area. The height of an entry with a pitched roof shall be measured as the average of its peak and eave. Fences located in the required clear-vision area, as defined by Section 17.60.040 shall not exceed a height of 3 feet;

B. In any rear or side yard, fences shall not exceed 6 feet in height. Fences located within the required clear vision area, as defined by Section 17.60.040 shall not exceed a height of 3 feet;

C. For lots abutting the oceanshore, any fence located within a required ocean yard shall not exceed a height of 2.5 feet;

D. Fences of any height may be located in areas that are not a required yard. Fences over 6 feet in height shall require a building permit;

E. All fences or portions thereof, shall be located or constructed in such a way as not to prevent access to abutting properties for building maintenance or fire protection purposes or shall not obstruct significant views of the ocean, mountains, or similar features from adjacent buildings;

F. The height of a fence shall be measured from the existing grade where the fence is located. The "existing grade" is defined as the surface of the ground, prior to any alterations; and

G. In residential zones, fences shall not make use of barbed wire or other sharp or otherwise dangerous construction material. In other zones, barbed wire may be permitted where required for security reasons and where no other reasonable alternatives are available.

H. Notwithstanding the provisions of subsections A and B, a fence of up to 7 feet in height may be permitted in conjunction with a community garden so long as any portion of the fence located within the required clear vision area, as defined by Section 17.60.040 does not exceed a height of three feet. (Ord. 09-4 § 15; Ord. 93-26 § 1; Ord. 93-22 § 1; Ord. 92-11 § 48; Ord. 89-3 § 1; Ord. 86-16 § 4; Ord. 79-4 § 1 (4.010) (1))

17.72.030 Accessory structure or building.

A. Structures and buildings accessory to a residential use shall comply with all yard requirements except that accessory structures and buildings may be located in the rear yard where a Type II development permit is issued pursuant to Section 17.14.030 Structures and buildings 6 feet in height or less do not require a development permit. Structures and buildings accessory to a residential use located in the required rear yard shall comply with the following standards:

1. The structures or buildings do not have a total area of more than 120 square feet; and

2. The structures or buildings are not closer than 5 feet to the rear property line; and

3. The structures or buildings do not exceed 12 feet in height, measured as the vertical distance from the average exiting grade to the highest point of the roof surface; and

4. The structures or buildings are located in such a way as to not be detrimental to abutting property and shall not obstruct views from adjacent buildings.

B. Structures or buildings, more than 120 square feet in size, accessory to a residential use shall not be metal clad (metal roofs are permissible).

C. Structures or buildings accessory to a commercial, industrial, or institutional use shall comply with all yard requirements.

D. A guest house may be maintained accessory to a dwelling provided that there are no kitchen facilities in the guest house. (Ord. 08-1 §§ 44, 45; Ord. 02-17 § 1; Ord. 97-29 § 1; Ord. 92-11 § 49; Ord. 90-10 § 1 (Appx. A § 32); Ord. 89-28 § 2; Ord. 86-16 § 4; Ord. 79-4 § 1 (4.010) (2))

17.72.040 Home occupations—Type I.

A Type I home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:

A. No person, other than members of the family residing in the dwelling, shall be employed on the premises of the home occupation;

B. The home occupation may be carried out in a dwelling or in an accessory building. However, not more than 25 percent of the gross floor area of the dwelling unit and an accessory structure utilized for the home occupation shall be used to conduct the home occupation;

C. Any structural alteration, or exterior modification of a dwelling, in order to accommodate a home occupation, shall be reviewed by the design review board in accordance with the procedures of Section 17.70.040. The purpose of the review is to determine whether the proposed modification would have an adverse impact on the residential character of the adjacent area. Where the design review board finds that there would be an adverse impact, the proposed alteration or modification shall be denied;

D. The home occupation shall be conducted in such a manner as to give no permanent exterior evidence of the conduct of a home occupation, other than a sign as provided by Chapter 17.62;

E. Retail sales of goods must be entirely accessory to any service provided by the home occupation, e.g. hair care products sold in conjunction with a beauty salon;

F. Home occupations shall emit no noise, air pollution, waste products, or other effects potentially detrimental to the neighborhood beyond those emanating from a dwelling;

G. The home occupation shall generate no more than 8 vehicle trips a day (Chapter 17.04 defines a vehicle trip as a single one direction vehicle movement to a particular destination);

H. No exterior storage of materials is permitted;

I. Commercial vehicle traffic generated by the home occupation shall be limited to two-axle vehicles, except that one round trip by a larger commercial vehicle is permitted in a calendar year.

J. Any home occupation authorized under the provisions of this section shall be open to inspection and review at reasonable times by code enforcement personnel for the purpose of verifying compliance with the provisions of this section or the conditions of approval.

17.72.050 Home occupations—Type II.

A Type II home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:

A. No more than 1 person, other than members of the family residing in the dwelling, shall be employed on the premises of the home occupation;

B. The home occupation may be carried out in a dwelling or in an accessory building. However, not more than 25 percent of the gross floor area of the dwelling unit and an accessory structure utilized for the home occupation shall be used to conduct the home occupation;

C. Any structural alteration, or exterior modification of a dwelling, in order to accommodate a home occupation, shall be reviewed by the design review board in accordance with the procedures of Section 17.70.040. The purpose of the review is to determine whether the proposed modification would have an adverse impact on the residential character of the adjacent area. Where the design review board finds that there would be an adverse impact, the proposed alteration or modification shall be denied;

D. The home occupation shall be conducted in such a manner as to give no permanent exterior evidence of the conduct of a home occupation, other than a sign as provided by Chapter 17.62;

E. Retail sales of goods must be entirely accessory to any service provided by the home occupation, e.g. hair care products sold in conjunction with a beauty salon;

F. Home occupations shall emit no noise, air pollution, waste products or other effects potentially detrimental to the neighborhood beyond those emanating from a dwelling;

G. The home occupation shall generate no more than 8 vehicle trips a day (Chapter 17.04 defines a vehicle trip as a single one direction vehicle movement to a particular destination);

H. No exterior storage of materials is permitted;

I. Commercial vehicle traffic generated by the home occupation shall be limited to two-axle vehicles, except that one round trip by a larger commercial vehicle is permitted in a calendar year.

J. Any home occupation authorized under the provisions of this section shall be open to inspection and review at reasonable times by code enforcement personnel for the purpose of verifying compliance with the provisions of this section or the conditions of approval.

17.72.060 Microwave receiving dishes.

A microwave receiving dish greater than 30 inches in diameter may only be placed in a rear yard, on the ground, and must be screened by landscaping. (Ord. 94-36 § 1; Ord. 92-11 § 51; Ord. 79-4 § 1 (4.010) (5))

17.72.070 Amusement devices.

Amusement devices are permitted only as an accessory use to commercial uses and tourist accommodations. Such amusement devices shall conform to the following requirements:

A. No more than 4 amusement devices are permitted at any business location. For the purpose of this section, business location is defined as a building, or portion of a building, where a business having amusement devices is operated pursuant to a city business license and where that business does not have direct access by means of an opening to another business in that building. Where a business does have direct access to another portion of a building using an access other than a common corridor, the businesses shall be considered 1 business location for the purposes of this section.

B. The holder of the city business license for the business location must also be the holder of the state amusement device license, issued pursuant to ORS 320.005 through 320.990, for the amusement devices at that location.

C. All amusement devices must be confined to a business location and may not be placed in portions of buildings that have common entry or exit areas, halls or walkways, restrooms, or similar public areas.

D. Business locations that are not in conformance with the requirements of subsections A through C of this section shall be brought into compliance within 30 days of the effective date of the ordinance codified in Section 17.44.060. (Ord. 88-12 § 4; Ord. 79-4 § 1 (4.010)(6))

17.72.080 Accessory dwelling.

Accessory dwellings, where permitted by the zone, shall conform to the following standards:

A. No more than one accessory dwelling shall be provided on a lot.

B. The accessory dwelling shall contain an area of no more than 600 square feet.

C. New dwellings that contain an accessory dwelling, or the exterior modification of an existing dwelling necessary to create an accessory dwelling, shall be subject to the design review requirements of Chapter 17.70.

D. An accessory dwelling shall be provided with 1 additional off-street parking space in addition to the 2 off-street parking spaces required for the dwelling.

E. A manufactured dwelling shall not be used as an accessory dwelling.

F. An accessory dwelling shall not be provided in conjunction with a duplex, triplex, or multiple-family dwelling.

G. An accessory dwelling shall not be permitted on a lot that contains a guest house.

H. An accessory dwelling to be provided in conjunction with a dwelling that is used as a home occupation shall be reviewed as a conditional use.

I. A new detached accessory dwelling shall comply with the setback requirements of the zone in which it is located. The provisions of Section 17.54.030(A) are not applicable to an accessory dwelling.

J. The property owner shall annually submit a notarized sworn statement that the accessory dwelling has been rented exclusively for periods of 30 calendar days or more.

K. The accessory dwelling shall remain in the same ownership as the primary dwelling. The accessory dwelling shall not be sold as separate real or personal property. (Ord. 95-8 § 12)

17.72.090 Storage containers—Residential.

A. Portable storage containers may be placed on property used for single-family or two-family residential purposes upon compliance with all of the following:

    1. No more than 1 portable storage container shall be located on a single lot or parcel of land.

2. No other type of container or shipping container is located on the same lot or parcel of land.

3. Portable storage containers shall not remain on lots or parcels of land longer than 16 consecutive calendar days and no more than 16 calendar days per calendar year.

B. The manager may approve an extension of up to 74 days beyond the initial 16 days by issuing a development permit, upon determining both of the following:

1. That a principal residential structure is damaged or dilapidated; or that the residential structure will undergo renovation, repair, remodeling, or reconstruction during the extension.

2. That a building permit has been issued, if required, and remains valid during the extension.

C. Portable storage containers shall comply with the following setbacks:

1. If a portable storage container is placed in the required front yard, then the portable storage container shall be located only in the area primarily used for vehicular ingress and egress and must have a minimum 10-foot setback from the edge of the curb. If no curb exists, the portable storage container shall have a minimum 10-foot setback from the edge of the pavement. However, notwithstanding the above setbacks, in no case shall a portable storage container extend into the public right-of-way.

2. If a portable storage container is placed in the required rear or side yard, no setback shall be required except that no portable storage container shall encroach upon adjacent property.

3. The portable storage container shall not conflict with the clear vision area requirements in Section 17.60.040. (Ord. 17-3 § 1)

17.72.100 Storage containers—Nonresidential and multifamily residential.

A. Portable storage containers may be placed on property used for multifamily residential or nonresidential purposes upon compliance with all of the following:

1. No more than 2 portable storage containers shall be located on a single lot or parcel of land.

2. No other type of container or shipping container is located on the same lot or parcel of land.

3. Portable storage containers shall not remain on lots or parcels of land longer than either:

   a. Sixteen consecutive calendar days and no more than 16 calendar days per calendar year; or

   b. If associated with a construction or remodeling project for which a valid building permit is in effect, up to 4 consecutive calendar months and no more than 4 calendar months per calendar year.

B. The manager may approve an extension by issuing a development permit for up to 3 months beyond the initial period authorized under subsection (A)(3), upon determining all of the following:

   1. That a principal structure is damaged or dilapidated; or will undergo renovation, repair, or reconstruction during the extension.

   2. That a building permit has been issued for the renovation, repair, or reconstruction, if required, and remains valid during the extension.

C. Portable storage containers shall comply with the following setbacks:

   1. If a portable storage container is placed in the required front yard, then the portable storage container shall be located only in the area primarily used for vehicular ingress and egress and must have a minimum 10-foot setback from the edge of the curb. If no curb exists, the portable storage container shall have a minimum 10-foot setback from the edge of the pavement. However, notwithstanding the above setbacks, in no case shall a portable storage container extend into the public street right-of-way.

   2. If a portable storage container is placed in the required rear or side yard, no setback shall be required except that no portable storage container shall encroach upon adjacent property.

   3. The portable storage container shall not conflict with the clear vision area requirements in Section 17.90.040. (Ord. 17-3 § 1)

Chapter 17.74 CLUSTER DEVELOPMENT

17.74.010 Provisions established.

The following provisions have been established in regard to cluster development:

A. In any zone, cluster development may be permitted to maintain open space, reduce street and utility construction, and increase attractiveness of development.

B. Cluster development is a development technique wherein structures or lots are grouped together around access courts or cul-de-sacs, or where sizes of lots surrounding structures are reduced while maintaining the density permitted by the comprehensive plan and this title.

C. Clustering may be carried out in the context of a subdivision, major or minor partition, replatting of existing lots or other review by the planning commission.

D. Single-family attached dwellings may be permitted by the planning commission so long as the overall density of the zone is not exceeded, and with consideration of design review board recommendations.

E. The planning commission (which may use the advice of staff or the design review board) may permit reduction in lot size, setback, or other standards so long as the density requirements of the zone are maintained. (Ord. 79-4 § 1 (4.190))

Chapter 17.76 MANUFACTURED DWELLING STANDARDS

17.76.010 Required standards in the MP zone.

A manufactured dwelling sited in the MP zone shall comply with the following standards:

A. The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standard, which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code, as defined in ORS 455.010.

B. A single-wide manufactured dwelling shall be tied down with devices that meet state standards for tie-down devices.

C. The manufactured dwelling shall have continuous skirting.

D. Except for a structure which conforms to the state definitions of a manufactured housing accessory structure, no extension shall be attached to a manufactured dwelling.

E. A storage building of at least 50 square feet shall be provided unless a similar amount of space is provided in a common storage facility. The building shall be completed within 30 days of placement of the manufactured dwelling.

F. No roof shall be constructed over a manufactured dwelling independent of the structure. Cabanas or awnings are permissible when they meet state standards. (Ord. 94-5 § 9; Ord. 90-10 § 1 (Appx. A § 40); Ord. 89-3 § 1; Ord. 79-4 § 1 (4.500))

17.76.020 Required standards in zones other than the MP zone.

A manufactured home sited in a zone other than the MP zone shall comply with the following standards:

A. The manufactured home shall be multisectional and shall enclose a gross floor area of not less than 1,000 square feet.

B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter.

C. The manufactured home shall have a roof pitch of a minimum of 3 feet in height for each 12 feet in width.

D. The manufactured home shall have exterior siding that consists of wood, wood composite material or vinyl.

E. The manufactured home shall have a roof constructed of the one of the following materials: composition, tile, or shakes.

F. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards, which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code, as defined in ORS 455.010.

G. The manufactured home shall have a garage or carport which is constructed of materials similar to the manufactured home.

H. The manufactured home shall incorporate architectural design elements as specified by Section 17.60.070 (Ord. 94-33 § 1; Ord. 94-5 § 10)

Chapter 17.78 HISTORIC SITE PROTECTION

17.78.010 Review of construction or development.

The planning commission shall review all construction or development within 200 feet of the following designated historic site to ensure that such development is compatible with its

historic character: Les Shirley Park — Lewis and Clark Historic Site. (Ord. 86-10 § 8; Ord. 79-4 § 1 (4.605))

Chapter 17.80 BED AND BREAKFAST ESTABLISHMENTS

17.80.010 Required standards.

Bed and breakfast establishments shall conform to the following standards:

A. The number of guest bedrooms shall be limited to 2;

B. The dwelling must be owner occupied;

C. In addition to required parking for the residents, 1 off-street parking space for each bed and breakfast bedroom shall be provided;

D. Signs shall be limited to one nonilluminated wall sign not exceeding 1.5 square feet in area; and

E. A city business license is required. (Ord. 79-4 § 1 (4.800))

Chapter 17.82 WIRELESS COMMUNICATION FACILITIES (WCF)

17.82.010 Purpose.

The purpose of this section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities, while providing residents and the business community with the ability to access and adequately utilize the services that these facilities support. The characteristics of wireless communications facilities are such that they have the potential to impact not only the area immediately surrounding the facility, but also the community as a whole. Because of these potential impacts, the standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are reduced to the greatest extent possible. (Ord. 02-1 § 1)

17.82.020 Application requirements.

The following items shall be provided as part of an application for the placement and construction of a wireless communication facility. These items are in addition to other information that may be required for the appropriate use permit. The manager may waive an application requirement described herein when it is determined that the information is not necessary to process or make a decision on the application being submitted.

A. A site plan drawn to scale indicating the location of the proposed antenna(s), support structure and equipment facility and relevant dimensions.

B. A photograph of the type of proposed antenna(s), support structure and equipment facility at a site similar to the proposal.

C. The materials being proposed, including the colors of the exterior materials.

D. A study of the visual impact of the proposed wireless communication facility consisting of a graphic simulation illustrating the appearance of the proposed facility as seen from up to five locations within the impacted area. Such locations are to be mutually agreed upon by the city manager and the applicant.

E. A map showing all the applicant's existing and proposed wireless communication facility sites within and adjacent to Cannon Beach, including a description of the wireless communication facility at each location. Adjacent to Cannon Beach is defined as within one mile of the city's urban growth boundary or visible from anywhere within the city's urban growth boundary, whichever is greater.

F. A map indicating the anticipated service coverage area of the proposed wireless communication facility.

G. A collocation feasibility study conducted for an area whose dimensions are pertinent to the proposed service area of the facility being proposed. The study will demonstrate that collocation efforts were made and provides findings on why collocation can or cannot occur.

H. Where less preferred locations or designs, as described in Section 17.82.030 are proposed, a description of other alternatives considered (alternate sites, alternative support structure heights, number of facilities, and equipment utilized), and the reasons why higher priority locations or designs were not selected.

I. A technical review study, if required by the city manager, in conformance with Section 17.82.030 (D), Technical Review. (Ord. 02-1 § 1)

17.82.030 Development standards.

Wireless communication facilities are permitted in all zoning districts except the open space (OS) zone. All wireless communication facilities shall be located, designed, constructed, treated, and maintained in accordance with the following standards:

A. Preferred Locations and Designs. The following sites shall be considered by applicants as the preferred order for the location and design of proposed wireless communication facilities:

Preferred Locations and Designs in Priority Order		
Location/Design		Level of Review
1.	Co-location or shared location on an existing wireless communication facility.	Outright use
2.	Micro antenna array attached to an existing structure.	Development permit/no notice
3.	Mini Antenna Array attached to an existing public facility such as a water tower or public building.	Design review
4.	Mini antenna array attached to an existing utility pole located in a street right-of-way.	Design review
5.	Mini antenna array attached to an existing commercial building.	Design review
6.	Mini antenna array attached to a new utility pole within the street right-of-way, up to a height of sixty feet.	Conditional use
7.	Attachment to an existing structure where the height or area of the antennas exceed those of a mini antenna array.	Conditional use
8.	A monopole not located in a street right-of-way, up to a height of sixty feet.	Conditional use

The following additional location criteria apply to, preferred location and design priority 6 through 8 listed above:

1. South of Ecola Creek, areas west of the Hemlock Street right-of-way will be avoided.

2. North of Ecola Creek, areas west of Larch Street should be avoided.

3. Locations on streets where underground utility service has been established should be avoided.

B. General Standards.

1. All facilities shall be installed and maintained in compliance with the requirements of the Building Code.

2. All WCFs shall be designed to minimize their visual impact to the greatest extent feasible.

3. The smallest and least visible antennas, to accomplish the coverage objectives, shall be utilized. Preference will be given to applications which utilize small or minimal size antennas that are less than 2 square feet in total area or size.

4. Antenna(s) attached to an existing structure shall be placed so as to integrate, as much as possible, with the building's design features and materials. Where appropriate, construction of screening to obscure the facility shall be required. Wall mounted antennas shall be integrated architecturally with the style and character of the structure, or otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. To the extent feasible, wall-mounted antennas should not be located on the front or most prominent façade of a structure and should be located above the pedestrian line-of-sight.

5. Colors and materials for WCFs shall be chosen to minimize their visibility. When painted, WCFs shall be painted or textured using colors to match or blend with the primary background of the facility, including the skyline or horizon.

6. Equipment facilities shall be placed in underground vaults wherever feasible. Aboveground equipment, facilities shall meet the setback requirements of the zone in which they are located and shall be reviewed through the design review process of Chapter 17.70 to ensure that they are designed, sited and landscaped to minimize the visual impact on the surrounding environment.

7. An existing utility pole may be replaced by a new utility pole made of wood with an additional height of 10 feet, up to a maximum of 50 feet, at the same pole location and still be subject to design review rather than a conditional use. Replacement of an existing utility pole with a metal pole shall be reviewed as a No. 6 siting priority requiring a conditional use permit. A new utility pole placed pursuant to siting priority No. 6 shall be a replacement pole not resulting in an additional utility pole in the street right-of-way.

8. A mini antenna array is the largest antenna array that is allowed on a monopole.

9. Exterior lighting for a WCF is permitted only when required by a federal or state authority.

10. A WCF placed pursuant to this chapter is exempt from the height requirements of the zoning district in which it is located.

C. Modifications to Approved Plans. Proposed modifications to a WCF that requires design review approval shall be evaluated pursuant to Section 17.70.110, Revision of Approved Plans. Proposed modifications to a WCF that requires a conditional use permit shall be reviewed as a conditional use.

D. Technical Review. If determined to be appropriate, the city manager may employ, on behalf of the city, an independent technical expert to review the technical information provided by the applicant in response to Section 17.82.020 (G) and 17.82.020 (H). The

technical review will be used to determine if adequate service coverage can be provided by alternative facility designs and locations not selected by the applicant, but which have a higher design priority as described in Section 17.82.030 (A), Development Standards, Preferred Locations and Designs. The applicant shall pay the cost of any such study.

E. Abandonment and Obsolescence. A wireless communication carrier shall notify the city of any plans to abandon or discontinue the use of a WCF. The facility shall be removed within 90 days of its abandonment. If the WCF is not removed within 90 days, the city may remove the WCF at the owner's expense. Any WCF that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such WCF shall remove the WCF within 90 days of receipt of notice from the city manager notifying the owner of such abandonment, or the city shall remove the facility at the owner's expense. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

F. Antenna -Exceptions. The provisions of this chapter do not apply to household radio or television reception antennas, satellite, or microwave parabolic antennas not used by wireless communication service providers, and antennas owned and operated by a federally-licensed amateur radio station operator (ham).

G. Nonconforming Wireless Communication Facilities. Wireless communication facilities that were located in conformance with applicable zoning requirements at the time of their construction, but which no longer conform to location standards for wireless communication facilities shall be considered pre-existing uses pursuant to Section 17.88.060. (Ord. 09-5 §§ 1—4; Ord. 02-1 § 1)

Chapter 17.84 SHORT-TERM RENTALS

17.84.010 Purpose.

The purpose of this chapter is to protect the character of the city's residential neighborhoods by limiting and regulating the short-term rental of dwelling units. The city permits three categories of short-term rentals. The three categories are: lifetime unlimited permits, five-year unlimited permits and fourteen-day permits. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.020 General provisions.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease, or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for short-term rental occupancy except:

1. A dwelling for which there is a short-term rental permit (either a lifetime unlimited permit, a 5-year unlimited permit or a 14-day permit) issued to the owner of that dwelling by the city; or

2. A dwelling which has been approved by the city for use as a bed and breakfast establishment.

B. No person shall be issued a new short-term rental permit who holds another short-term rental permit. All types of rental permits are issued to a specific owner of a specific dwelling unit. The rental permit shall be void when the permit holder sells or transfers the real property, as defined in this chapter, which was rented pursuant to the short-term rental permit.

C. Solid Waste Collection. Weekly solid waste collection service shall be provided during all months that the dwelling is available as a rental pursuant to this chapter.

D. Permit Posting. The rental permit shall be posted within the dwelling adjacent to the front door. In addition, a tsunami evacuation route map shall also be posted in the rental dwelling. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.030 Taxes.

The rental of a dwelling for short-term rental occupancy shall be subject to compliance with the requirements of Municipal Code, Chapter 3.12, Transient Room Tax. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.040 Lifetime unlimited and five-year unlimited permits.

A. It is the city's intention to allow lifetime unlimited permits and 5-year unlimited permits to remain in force until revoked or terminated pursuant to this chapter. When a lifetime unlimited permit is revoked or terminated pursuant to this chapter, it will not be replaced. When a 5-year unlimited permit is revoked or terminated pursuant to this chapter, it will not be replaced.

B. The maximum period of time that a person may hold an unlimited 5-year rental permit is 5 consecutive years. At the end of the 5-year period such permit will expire and may not be renewed. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.050 Fourteen-day permit occupancy requirements.

A. The 14-day permit issued by the city authorizes the owner to rent the dwelling once, one individual tenancy, within 14 consecutive calendar days.

B. An individual tenancy shall commence on the first day that the person(s) that constitute the individual tenancy occupy or are entitled to occupy the dwelling unit.

C. For the purposes of this subsection, an individual tenancy means a specific person or group of persons who together occupy or are entitled to occupy a rental with a 14-day permit.

D. Occupancy of the rental unit by the individual tenancy for the entire 14-day period is not required. However, no additional occupancy, with the exception of the property owner, shall occur within the minimum 14-day occupancy period that begins on the first day of an individual tenancy.

E. A 14-day rental permit is issued to a specific owner of a dwelling unit. When the permit holder sells or transfers the real property, the original 14-day permit is revoked, and the new owner may apply for a new 14-day rental permit.

F. A person who holds a lifetime unlimited or 5-year unlimited permit shall not be permitted to hold a 14-day permit.

G. A 14-day permit application may be submitted to the city at any time and, if approved, the 14-day permit shall last for 1 year from the date of issuance. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.060 Inspection.

A. At the time of application for any new short-term rental permit pursuant to this chapter, the dwelling unit shall be subject to inspection by the city manager or designee. The purpose of the inspection is to determine the conformance of the dwelling with the requirements of the Oregon State Building Code. Prior to the issuance of a rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the manager.

B. A dwelling with a short-term rental permit pursuant to this chapter shall be subject to inspection at any time with proper notice to the owner. The owner of the dwelling unit shall make any and all necessary alterations to the dwelling required by the building official. A failure to complete the alterations within the specified time period may result in the revocation of the permit. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.070 Local representative.

A. The property owner shall designate a local representative who permanently resides within the Cannon Beach urban growth boundary or a licensed property management company with a physically staffed office within ten vehicular miles of the Cannon Beach urban growth boundary. The owner may be the designated representative where the owner permanently resides within the Cannon Beach urban growth boundary. Where the owner does not reside within the Cannon Beach urban growth boundary, the owner shall designate either a resident within the Cannon Beach urban growth boundary, or a licensed property management company within 10 vehicular miles of the Cannon Beach urban growth boundary as his or her representative.

B. The property owner or the designated local representative shall maintain a guest register for all tenancies of the rental. The register shall include the names, home addresses and phone numbers of the tenants; and the dates of the rental period. The above information must be available for city inspection upon request; failure to maintain or provide the required information constitutes a violation and is grounds for a penalty pursuant to this chapter.

C. The local representative must be authorized by the owner of the dwelling to respond to tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the dwelling for rental purposes. The local representative must respond to those complaints in a timely manner to ensure that the use of the dwelling complies with the standards for rental occupancy, as well as other pertinent city ordinance requirements pertaining to noise, disturbances, or nuisances, as well as state law pertaining to the consumption of alcohol, or the use of illegal drugs. The failure of the local representative to respond to complaints, or the failure of the local representative to respond to queries from city staff, is a violation of this chapter and is subject to the penalties listed in this chapter to include revocation of the short-term rental permit.

D. If the police department is not able to contact the local representative in a timely manner more than twice during the term of the annual permit, this shall be considered a violation pursuant to this chapter and the permit is subject to suspension and possible revocation.

E. If the designated local representative is replaced, the permit holder must file a revised permit local representative certification form that includes the name, address, and telephone number of the new local representative. The owner must submit this form to the city within thirty days of the replacement. Failure to do so is considered a violation of this chapter and the permit is subject to suspension or revocation.

F. The city manager will post the name, address, and telephone number of the owner or the local representative on the city website. The purpose of posting this information is so that adjacent property owners and residents can contact the responsible person to report and request the resolution of problems associated with the operation of the rental. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.080 Occupancy and parking.

A. Off-street parking is required as specified below. Occupancy is limited by the number of bedrooms, and by the number of available off-street parking spaces as specified in the following table.

Bedrooms (a)	Maximum occupancy (b) (c)	Minimum off-street parking (d)
1	6	2
2	6	2
3	8	3
4	10	4
5	12	4

Notes:

(a) A bedroom consists of a room that meets the definitional requirements of the State of Oregon Building Code.

(b) Occupancy includes only those persons 2 years of age and older.

(c) In no event shall the occupancy of a dwelling exceed 12 persons, unless a short-term rental permit issued prior to January 1, 2005 established an occupancy of more than 12 persons.

(d) Each off-street parking space must be located entirely on the property and must be at least 9 feet wide by 18 feet long and must be accessible from a driveway or public street.

(Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.090 Violations and penalties.

A. The following conduct shall constitute a violation for which the penalties specified below may be imposed. Note that each day of a violation is considered a separate violation for the purposes of the sanctions below.

1. The owner has failed to comply with any of the standards listed in this chapter; or

2. The owner has failed to pay the transient room tax and/or file a transient room tax return as required by Municipal Code, Chapter 3.12.

B. Penalties. For violations of this chapter, the following penalties will be imposed:

1. For the first violation within a 24-month period, the penalty shall be a warning notice.

2. For the second violation within a 24-month period, the penalty shall be a suspension of the permit for 30 days.

3. For the third violation within a 24-month period, the penalty shall be a suspension of the permit for 90 days.

4. For the fourth violation within a 24-month period, the penalty shall be a revocation of the permit.

C. Notice. The city shall notify the permit holder and local representative in writing of any penalties imposed under this chapter.

1. The city may seek injunction or other equitable relief in court to enjoin any violation of this chapter and may recover the costs of such actions. The city may seek such criminal or civil penalties as are authorized by Oregon law. Each day of violation may be considered a separate violation. Each violation may result in a fine of up to $500.

2. After the revocation of a permit, or after the enforcement taken under Section 17.20.010 of the general provisions of Section 17.84.020 for renting without a license, where a penalty is awarded under the provisions of Section 17.20.030, the owner(s) will be prohibited from participation in the short-term rental program for 2 years from the time of the revocation or penalty. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.100 Appeal.

A. The permit holder may appeal the penalty to the city council by filing a letter of appeal with the city manager within 10 days after the date of the mailing of the order. The city council shall conduct a hearing on the appeal within 60 days of the date of the filing of the letter of appeal. At the appeal, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the council may uphold, modify, or overturn the decision to suspend or revoke the permit based on the evidence it received.

B. A person who has a rental permit revoked shall not be permitted to apply for short-term rental permits until a period of 2 years has passed from the date of revocation.

C. A person renting a property without a valid rental permit shall be in violation of the Cannon Beach Municipal Code and shall be subject to a fine of up to $500 for each day the dwelling has been rented without a permit. (Ord. 19-5 § 1; Ord. 17-5 § 1)

17.84.110 Professional management

Self-managed short-term rental permit holders with 2 or more violations within a 24-month period may defer the penalties in Section 17.84.090 by placing their short-term rental unit under professional management as defined in Section 17.04 for a minimum period of 2 years. If additional violations accrue during the period of professional management, the penalties in Section 17.84.090 are applicable, including deferred penalties. (Ord. 19-5 § 1)

Chapter 17.86 CONDITIONAL USES

17.86.010 Purpose.

The purpose of the conditional use process is to allow, when desirable, uses that would not be appropriate throughout a zoning district or without the restrictions in that district, but would be beneficial to the city if their number, area, location, design, and relation to the surrounding property are controlled. (Ord. 79-4 § 1 (6.010))

17.86.020 Authorization to grant or deny.

A. Uses designated in this chapter as conditional uses may be permitted, enlarged, or otherwise altered upon authorization by the planning commission, or denied by the planning commission. This will be done in accordance with the Type III procedural requirements in Article II, the comprehensive plan, standards for the district, standards in Chapters 17.60 through 17.84 and Chapters 17.104 through 17.116, additional zoning provisions, and other city ordinance requirements. The burden is upon the applicant to demonstrate that these requirements can be met.

B. In permitting a conditional use or the modification of an existing conditional use that involves a housing type (e.g., multifamily, manufactured dwelling park, manufactured dwelling subdivision), the planning commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which it considers necessary to protect the best interests of surrounding property or the city as a whole. These additional conditions are as follows:

    1. Increasing the required lot size or dimensions;

    2. Reducing the required height and size of buildings;

    3. Controlling the location and number of vehicle access points;

    4. Increasing the required off-street parking spaces;

5. Increasing the required street width;

6. Limiting the number, size, location and lighting of signs;

7. Requiring diking, fencing, screening, landscaping, berms, or other items to protect adjacent or nearby areas;

8. Designating sites for open space;

9. Specifying the types of materials to be used;

10. Specifying the time of year the activity may occur; and

11. Specifying the type of lighting to be used.

C. In permitting a conditional use, or the modification of a conditional use, other than a housing type, the planning commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions, which are necessary to protect the adjacent property, an identified resource, or the city as a whole. Such conditions may include those set out in subdivisions 1 through 11 of subsection B of this section but are not limited thereto. (Ord. 90-10 § 1 (Appx. A § 47); Ord. 79-4 § 1 (6.020))

17.86.030 Existing conditional uses.

In the case of a use existing prior to its present classification by the ordinance codified in this chapter as a conditional use, any change in use or in lot area or any alteration of a structure shall conform with the requirements dealing with conditional uses. (Ord. 79-4 § 1 (6.030))

17.86.040 Performance bond.

The planning commission may require that the applicant for a conditional use furnish to the city a performance bond up to, and not to exceed, the value of the cost of the required improvements in order to assure that the conditions imposed are completed in accordance with the plans and specifications as approved by the planning commission and that the standards established in granting the conditional use are observed. (Ord. 79-4 § 1 (6.040))

17.86.050 Application—Filing.

A property owner or their designated representative may initiate a request for a conditional use or the modification of any existing conditional use by filing an application with the city using forms prescribed by the city. (Ord. 89-3 § 1; Ord. 79-4 § 1(6.050))

17.86.060 Application—Investigation and reports.

The city manager shall make or cause to be made an investigation to provide necessary information to ensure that the action in each application is consistent with the requirements of this title and shall make a recommendation to the planning commission. (Ord. 89-3 § 1; Ord. 79-4 § 1 (6.060))

17.86.070 Compliance with conditions of approval.

Adherence to the submitted plans, as approved, is required. Compliance with conditions of approval is also required. Any departure from approved plans or conditions of approval constitutes a violation of the ordinances codified in this title, unless modified by the planning commission at a public hearing, pursuant to Chapter 17.12.070. (Ord. 08-1 § 52; Ord. 79-4 § 1 (6.080))

17.86.080 Overall use standards.

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

A. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.

B. The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

C. The site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by city ordinances or desired by the applicant.

D. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.

E. An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by city ordinances or desired by the applicant. Suitability, in part, should

be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

F. The site and building design ensure that the use will be compatible with the surrounding area. (Ord. 20-03 § 3)

17.86.090 Specific use standards.

In addition to the overall conditional use standards, the specific use standards of Sections 17.86.100 through 17.86.330 shall also be applied. (Ord. 17.80.120)

17.86.100 Animal hospital or kennels.

Animal hospital or kennel pens shall be enclosed to the extent that noise does not affect adjacent property. Kennels shall be connected to city sewers for animal waste disposal. (Ord. 79-4 § 1 (6.140))

17.86.110 Automobile service stations.

Automobile service stations shall be located on a site of at least 10,000 square feet. (Ord. 79-4 § 1 (6.150))

17.86.120 Material, vehicle and parts storage.

Materials, vehicles or parts used in boat building, cabinet, carpentry, or other contractor's shops, machine shops or vehicle repair shall be stored in an enclosed structure, or, where that is impractical, behind fences or vegetative buffers. Odors, fumes, sawdust or other emissions shall be controlled so as not to affect adjacent property. Noise standards of the Department of Environmental Quality shall be adhered to. As much tree cover as possible shall be maintained on the property. A buffer, as specified by Chapter 17.66 shall be maintained between the use and adjacent uses or public streets. (Ord. 79-4 § 1 (6.160))

17.86.130 Community garden.

The following specific standards shall apply to a community garden:

A. A site plan will be provided which indicates the location of all anticipated improvements, including the location of storage sheds, compost bins, fencing, and raised beds.

B. Structures such as storage sheds and compost bins shall conform to setback requirements; raised beds may be located in required setback areas as long as they conform to the clear vision area requirements of Section 17.60.040.

C. Fences shall conform to the standards of Section 17.72.020 (H).

D. On-site retail sales are not permitted.

E. The land shall be served by a sufficient water supply.

F. The community garden shall be managed by an organization which has an established set of operating rules addressing the governance of the community garden.

G. The planning commission may specify operating hours for community garden activities based on the location of the community garden.

H. Notwithstanding any provision of Section 17.70.020 Applicability, a community garden is not subject to design review, except that any structure of 200 square feet or more shall be subject to design review as described in Chapter 17.70 Design Review Procedures and Criteria. (Ord. 09-4 § 16)

17.86.140 Docks.

Single-purpose, private docks shall not be permitted. Floating docks shall not rest on the creek bottom at low tide. Floats shall be adequately secured to the bank. Where floating docks are unfeasible, a fixed dock may be permitted where a finding is made that it is consistent with the resource capability and the purpose of the estuary zone. All docks must have permits from the Division of State Lands and the U.S. Army Corps of Engineers. Navigation or recreational use of the water shall not be impeded. Hydraulic (erosional) effects on adjacent shorelines shall be minimized by design of the dock. A very limited number of common or public docks may be permitted. (Ord. 79-4 § 1 (6.170))

17.86.150 Forest management.

A. Purpose. The purpose of this section is to ensure that forest practices are carried out in a manner that will protect soil integrity, water quality, fish and wildlife habitat, riparian vegetation, significant natural resources, scenic values, and adjacent urban uses.

B. Applicability. The following activities are considered forest management practices and are subject to the provisions of this section:

1. Harvesting of trees for commercial purposes including but not limited to falling, bucking, yarding, decking, loading or hauling of such trees;

2. Construction, reconstruction and improvements of roads as part of a forest harvesting operation;

3. Site preparation for reforestation involving clearing or the use of heavy machinery;

4. Clearing of forest land for conversion to a nonforest use;

5. Disposal and treatment of slash;

6. Precommercial thinning.

C. Exceptions. The removal of trees pursuant to Chapter 17.112 is not considered a forest management practice.

D. Forest Management Plan Approval Required.

1. As part of a conditional use application, a forest management plan prepared by a forester shall be submitted.

2. The written forest management plan shall contain specific information applicable to the proposed operation. Elements of the plan shall include, but not be limited to, the location of roads and landings, road and landing design and construction, drainage systems, disposal of waste material, falling and bucking, buffer strips, yarding system and layout, sensitive resource site protection measures and post-operation stabilization measures.

3. The city shall select a forester from its list of foresters to prepare the plan. The applicant shall be billed for the cost of the plan preparation as well as the cost of monitoring the forest management operation.

4. The forest management plan shall conform to the standards of subsection E of this section.

5. In the preparation of the forest management plan, the forester shall consult with state and federal agencies concerned with the forest environment, such as the Department of Fish and Wildlife, to obtain relevant information.

6. The landowner and/or operator shall comply with the approved forest management plan.

7. Modifications to the approved plan shall be reviewed by the planning commission. Modification of an approved plan shall be required when, based on information that was not available or known at the time of the approval, the forester determines the approved plan will no longer provide adequate protection to the natural resources of the site.

8. The forester shall monitor the forest operation to ensure that it is carried out in accordance with the approved plan. Upon completion of the operation the forester shall prepare a report certifying that the operation was carried out in compliance with the approved plan.

E. Standards. Forest management plans shall be prepared in conformance with the following standards:

1. Only selective harvesting of trees is permitted. The forester shall determine the site's total basal area. Trees with a diameter, measured at breast height, of less than 6 inches shall not be included in the calculation of the site's basal area. An initial plan, or any subsequent plan, shall propose removing no more than an aggregate of fifty percent of the total basal area existing on the site at the time the initial application for harvesting is submitted to the city. In addition, no more than 60 percent of the site's total number of trees, which have a minimum diameter of 6 inches at breast height, shall be removed. Trees with a diameter of less than 6 inches at breast height shall not be removed.

2. A riparian zone shall be maintained adjacent to both class I and class II waters. The width of the riparian zone shall be 25 feet on either side of class II waters. The width of the riparian zone shall be 50 feet on either side of class I waters. There shall be no harvesting of trees in the riparian zone. Other activities in conjunction with forest practices, such as road construction, in the riparian zone shall be permitted only where there are no feasible alternatives. The definitions of class I and class II waters shall be those established in the Forest Practices Rules 629-24-101.

3. Existing stream courses shall not be altered.

4. No forest management operations shall occur in identified wetland areas.

5. Where a forest operation is to be located within six hundred feet of a specific site involving a threatened or endangered species (as listed by the U.S. Fish and Wildlife Service or the Oregon Department of Fish and Wildlife) or a sensitive bird nesting, roosting, or watering site, a specific habitat-protection plan shall be prepared in consultation with the Oregon Department of Fish and Wildlife.

6. There shall be no subsurface mining as part of a forest operation.

7. Forest practices shall not involve the application of herbicides, insecticides, or rodenticides.

8. Slash shall be controlled in a manner that does not require burning.

9. Road construction shall be in accordance with the criteria of the Forest Practices Rules 629-24-521 to 629-24-523 (1990).

10. Harvesting of trees shall be in accordance with the criteria of the Forest Practices Rules 629-24-542 to 629-24-545 (1990).

11. Reforestation of lands intended to continue in forest use shall be stocked according to the levels specified in the Forest Practices Rules 629-24-501 (1990). The forest management plan shall include specified actions necessary for the maintenance of planted trees. Within 1 year following the harvest on lands not planned for reforestation, adequate vegetative cover shall be established to provide soil stabilization and to minimize aesthetic impacts within 1 year following the harvest.

12. No trees shall be harvested within fifty feet of the U.S. Highway 101 right-of-way. Trees located in this area shall not be included in the calculation of the site's initial basal area.

13. Overall conditional use standard, Section 17.86.080 (A), shall not be applicable to forest management. (Ord. 94-23 §§ 1, 2; Ord. 90-10 § 1 (Appx. A § 48); Ord. 79-4 § 1 (6.180))

17.86.160 Manufactured dwelling parks.

The following specific standards shall apply to manufactured dwelling parks:

A. A manufactured dwelling park shall conform to state standards in effect at the time of construction;

B. Spaces in manufactured dwelling parks shall be sized as follows:

1. Spaces for double-wide units (24 to 28 feet wide) shall be a minimum of 5,000 square feet,

2. Spaces for single-wide units (14 to 16 feet wide) shall be 4,000 square feet.

3. Spaces for "park model" units (8 feet wide) shall be 3,000 square feet. Park model units are defined as small manufactured dwellings designed for permanent occupancy, and do not include recreational vehicles;

C. Spaces shall be clearly defined and shall be exclusively used for the private use of the tenant of the space.

D. Manufactured dwellings shall be located within their designated spaces, so that the setbacks are:

1. Front yard, 15 feet,

2. Side yards, 5 feet,

3. Rear yard, 15 feet;

E. Manufactured dwellings shall be located at least 25 feet from the property lines of the manufactured dwelling park;

F. Manufactured dwellings placed in the manufactured dwelling park shall conform to the provisions of Chapter 17.96, the flood hazard protection standards;

G. Streets in a manufactured dwelling park may be dedicated to the city or may be retained in private ownership. Private streets shall be constructed to city standards, except that two-way streets may be 18 feet wide and one-way lanes may be 12 feet wide. Storm drainage facilities shall be installed throughout the manufactured dwelling park. Streets dedicated to the city shall meet city standards. All streets shall be approved by the city manager. Each manufactured dwelling space shall abut a street for a minimum distance of 20 feet;

H. Easements necessary for public utilities and installation of fire hydrants shall be required by the city manager, at appropriate locations;

I. The planning commission may require buffers of sight-obscuring fences, hedges and/or beans, between the manufactured dwelling park and adjacent property, and between potentially conflicting uses such as campgrounds or accessory uses. Buffering may be waived where it is unnecessary due to topographical features or existing tree cover;

J. A minimum of 20 percent of the overall area of the park shall be devoted to common open space, including buffers. Open space may also include playgrounds, natural areas, streams, and wetlands, but shall not include individual setback areas, streets, or utility areas;

K. Manufactured dwellings shall bear the Oregon Insignia of Compliance and conform to the standards of the Department of Commerce;

L. Manufactured dwellings shall have a continuous skirting of nondecaying, noncorroding material which shall be installed within 30 days of placement of the unit;

M. All manufactured dwellings shall be installed with tie-downs to protect the manufactured dwelling against wind and storm damage. Tie-downs shall be installed prior to occupancy of the unit;

N. Manufactured dwellings shall conform to the parking requirements for single-family dwellings, as specified in Chapter 17.68;

O. Signs shall be in conformance with Chapter 17.62. (Ord. 06-9 § 4; Ord. 90-10 § 1 (Appx. A § 49); Ord. 79-4 § 1 (6.185))

17.86.170 Tourist accommodations.

In residential zones, motels or other tourist accommodations shall maintain residential yard requirements or setbacks. Outdoor lighting or signs shall not cast glare onto adjacent residential property or the beach. Traffic ingress and egress shall be onto other than residential streets, except that access points onto major streets shall be minimized. A commercial or recreational use associated with a motel shall be located so as not to adversely affect adjacent property by its hours of operation, noise, traffic generation, signs, or lighting. (Ord. 79-4 § 1 (6.190))

17.86.180 Public facilities and services.

The following specific conditional use standards apply to public facilities and services:

A. Public facilities including, but not limited to, utility substations, sewage treatment plants, stormwater and treated wastewater outfalls, submerged cables, sewer lines and water lines, water storage tanks, radio and television transmitters, electrical generation and transmission devices, and fire stations shall be located to best serve the community or area with a minimum of impact on neighborhoods, and with consideration for natural or aesthetic values. Structures shall be designed to be as unobtrusive as possible. Wherever feasible, all utility components shall be placed underground.

B. Public facilities and services proposed within estuarine areas shall provide findings that:

1. An estuarine location is required, and a public need exists, and

2. Alternative nonaquatic locations are unavailable or impractical, and

3. Dredge, fill, and adverse impacts are avoided or minimized.

C. Public facilities and services in estuarine areas shall minimize interference with use and public access to the estuary. (Ord. 79-4 § 1 (6.200))

17.86.190 Recreational vehicle parks.

The following specific standards apply to recreational vehicle parks:

A. Recreational vehicle (RV) parks or camping areas shall be in conformance with the standards of the Oregon Health Department;

B. RV parks shall be at least 3 acres in size;

C. RV parks shall be connected to city services, including sewer, water, and storm drainage. Parks shall also be connected to power and communications services. The ratio of lavatories and toilet facilities to RV spaces shall be prescribed by state law;

D. There shall be at least 2,500 square feet of total area per recreational vehicle, overall. Individual RV spaces shall not be less than 1,500 square feet;

E. Streets or private drives and pads shall be surfaced with asphaltic concrete or oil mat surfacing material. Interior streets or private drives shall not be less than 20 feet for two-way streets, or 15 feet for one-way streets;

F. Buffers of at least 50 feet shall be required in order to separate parks from surrounding residential uses or public streets or roads. A sight-obscuring fence or plantings shall be required except in clear-vision areas;

G. Where existing tree cover is present, it shall be retained on the site. Camping spaces shall be constructed so as not to harm root systems by fill;

H. Camping spaces, restrooms, parking areas and other structures or alterations shall be at least 50 feet from streams or bodies of water to maintain riparian vegetation and the scenic values of the area. Public access shall be maintained to the water;

I. Dumping into the city sewer system of holding tanks containing chemically-treated wastes shall not be permitted.

J. A park trailer may be placed for dwelling purposes subject to the installation of state-approved tie-down devices. The total number of park trailers placed in a recreational vehicle park for dwelling purposes shall not exceed 25 percent of the total number of approved recreational vehicle spaces in that park. The minimum area of a recreational vehicle space used for the placement of a park trailer used for dwelling purposes shall be 1,500 square feet. (Ord. 06-9 § 5; Ord. 91-3 § 2; Ord. 90-10 § 1 (Appx. A § 50); Ord. 79-4 § 1 (6.210))

17.86.200 Places of congregation or meeting halls.

The sites of schools, churches, museums, lodges, or meeting halls shall be located so as to serve the surrounding area. Traffic will not congest residential streets, the structures will be designed or landscaped so as to blend into the surrounding environment and the activities or hours of

operation will be controlled to avoid noise or glare impacts on adjacent uses. (Ord. 79-4 § 1 (6.220))

17.86.210 Shoreline stabilization.

The following specific conditional use standards apply to shoreline stabilization:

A. Beachfront protective structures seaward of the Oregon Coordinate Line, require a permit from the Oregon Parks and Recreation Department and the city. Beachfront protective structures landward of the Oregon Coordinate Zone Line requiring more than fifty cubic yards of material may require a permit under the Oregon Removal Fill Law. All beachfront protective structures landward of the Oregon Coordinate Line require a permit from the city.

B. Shoreline stabilization along the Ecola Creek Estuary requires a permit from the U.S. Army Corps of Engineers, the Oregon Division of State Lands, if it involves more than 50 cubic yards, and the city.

C. The city's review of beachfront protective structures, both landward and seaward of the Oregon Coordinate Line, shall be coordinated with the Oregon Parks and Recreation Department. The city's review of shoreline stabilization along Ecola Creek Estuary shall be coordinated with the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

D. Shoreline Stabilization Priorities.

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:

a. Proper maintenance of existing riparian vegetation;

b. Planting of riparian vegetation;

c. Vegetated rip-rap;

d. Nonvegetated rip-rap;

e. Bulkhead or seawall.

2. Where rip-rap, bulkheads or seawalls are proposed as protective measures, evidence shall be provided that high priority methods of erosion control will not work.

E. Qualifications for Beachfront Protection.

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

    a. There is a critical need to protect property that is threatened by erosion hazard;

    b. Impacts on adjacent property are minimized;

    c. Visual impacts are minimized;

    d. Access to the beach is maintained;

    e. Long-term or recurring costs to the public are avoided; and

    f. Riparian vegetation is preserved as much as possible.

2. These criteria shall apply to structural shoreline stabilization both east and west of the State Zone Line.

F. Beachfront protective structures for beach and dune areas shall be permitted only where development existed on January 1, 1977. "Development" means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Goal 18 exception has been approved. Notwithstanding that the comprehensive plan and a map made part of the ordinance codified in this title identify property where development existed on January 1, 1977, owners whose property is identified as undeveloped on January 1, 1977 shall have a right to a hearing as provided in Chapter 17.16, as amended, to determine whether development did or did not exist on the property on January 1, 1977.

G. Structural shoreline stabilization methods along Ecola Creek Estuary shall be permitted only if the following criteria are met:

1. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights, and:

    a. No feasible alternative upland locations exist, and

    b. Adverse impacts are minimized;

2. Flooding or erosion is threatening an established use on a subject property;

3. The proposed project will not restrict existing public access to publicly owned lands or interfere with the normal public use of fishery, recreation or water resources;

4. Visual impacts are minimized;

5. The proposed project will not adversely impact adjacent aquatic areas or nearby property through increased erosion, sedimentation, shoaling or other changes in water circulation patterns. An affidavit from a registered engineer, geologist or hydrologist may be required to demonstrate this;

6. The project is timed to minimize impacts on aquatic life;

7. Long-term or recurring costs to the public are avoided.

H. Rip-rap shall be placed in accordance with the city's design criteria. Structural shoreline stabilization shall be designed by a registered engineer if the city's design criteria for rip-rap are not used, or if landslide retention is a factor in the placement of the shoreline protection structure. All structural shoreline stabilization shall be covered with fill material such as soil, clay, or sand and revegetated with beach grass, willow, or other appropriate vegetation. This requirement shall apply to replacement or repair of existing rip-rap as well as new construction.

I. The shoreline protection structure shall be the minimum necessary to provide the level of protection required.

J. The emergency placement of rip-rap to protect buildings from an imminent threat shall be permitted without a permit. However, the city, Oregon Parks and Recreation Department and the Oregon Division of State Lands shall be notified when rip-rap is placed along the beachfront. The city, Oregon Division of State Lands, and the U.S. Army Corps of Engineers shall be notified when rip-rap is placed along the Ecola Creek Estuary. Measures taken as a result of emergency conditions will be inspected. Alteration or removal of the material placed to conform to city and state standards may be required.

K. Proposals to repair existing rip-rap, bulkheads or seawalls shall be reviewed by the building official. If the building official determines the proposed repair involves a major change in the extent of rip-rap, bulkheading or the seawall, the proposal shall be reviewed by the planning commission as a conditional use. If the proposed repair is determined to not involve a major change, a development permit is required. Repairs to rip-rap shall conform to the city's design criteria for rip-rap.

L. The city may require that proposed structural shoreline stabilization abutting a street end, or other public right-of-way, incorporate steps, paths, or other physical improvements to enhance public access to coastal waters. (Ord. 95-21 § 4; Ord. 94-08 §§ 16—18; Ord. 89-3 § 1; Ord. 86-10 § 11; Ord. 79-4 § 1 (6.230))

17.86.220 Post office.

The main post office of the city shall be located in the downtown area C-1 zone, except that a branch may be located in the commercial zone of Tolovana Park. (Ord. 79-4 § 1 (6.240))

17.86.230 Parks.

New park projects or major improvements, both city and state, shall be reviewed by the city parks board and the design review board to ensure that such projects are aesthetically compatible with their surroundings in terms of open space, landscaping, scale and architecture. Public need will be demonstrated through evidence of increased demand on existing facilities, and the support of citizens and visitors for the proposed facility. (Ord. 79-4 § 1 (6.250))

17.86.240 Trails.

The construction of trails and the anticipated level of trail usage shall have a negligible impact on the area's open space values. (Ord. 79-4 § 1 (6.260))

17.86.250 Public parking facilities.

A public parking facility shall be reviewed by the design review board subject to pertinent criteria in Chapters 17.70 and 17.68 of this title. (Ord. 79-4 § 1 (6.270))

17.86.260 Cottage industries.

A. The following specific conditional use standards apply to cottage industries:

1. Materials, vehicles or parts shall be stored in an enclosed structure;

2. Noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the cottage industry shall not be detectable beyond the limits of the property;

3. Sight-obscuring landscaping of at least 20 feet in width shall be maintained between the use and adjacent properties or public streets;

4. The use must be a low-traffic generator;

5. Other than family members residing on the premises, no more than 1 other employee may be hired;

6. Signs shall not exceed 1 square foot in area and shall comply with the provisions of Chapter 17.62;

7. Off-street parking and access shall be designed to be adequate for customers without creating a commercial parking lot appearance on the site. Chapter 17.68 shall apply;

8. Uses involving nonresident employees and the delivery of materials shall limit their hours of operation to between 8:00 a.m. and 6:00 p.m.;

9. Waste disposal shall comply with Department of Environmental Quality requirements;

10. A structure built to house a cottage industry shall be reviewed by the design review board subject to pertinent criteria in Chapter 17.70;

11. The cottage industry shall only be operated by residents of the property and shall not be leased, sold, conveyed, or any interest therein transferred separately from the residence.

B. The planning commission shall review cottage industries upon the receipt of two written complaints of violations of these standards from two separate households within 250 feet of the boundary of the affected property, or a complaint from the planning commission. The planning commission shall hold a public hearing to review the complaints.

C. The planning commission shall hear the evidence presented, and may, with adequate findings of fact:

1. Approve the use as it exists; or

2. Require that it be terminated; or

3. Impose restrictions such as limiting hours of operation.

D. New complaints which are substantially similar to those previously acted upon will be heard by the planning commission only after a period of 6 months has elapsed from the date of the earlier decision, unless the planning commission believes that any restrictions it has imposed have not been followed. (Ord. 79-4 § 1 (6.275))

17.86.270 Dikes.

The following specific conditional use standards apply to dikes:

A. The outside face of the dike shall be suitably protected to prevent erosion during new dike construction and during maintenance of existing dikes. Applicable standards for shoreline stabilization shall be met. However, trees, brush, and shrubs, which jeopardize the structural integrity of dikes, should be excluded from revegetation plans.

B. New dike alignment and configuration shall not cause an increase in erosion or shoaling in adjacent areas or an appreciable increase in backwater elevation. Channelization of the waterway shall be avoided.

C. Where new dikes are shown to be necessary for flood protection, new dikes shall be placed on shorelands and not in aquatic areas. Where this is not feasible, an exception to Statewide Planning Goal 16, Estuarine Resources, is required. (Ord. 9521 § 6; Ord. 79-4 § 1 (6.280))

17.86.280 Estuarine dredging.

The following specific conditional use standards apply to dredging:

A. Dredging in Aquatic Areas.

1. Dredging in aquatic areas shall only be permitted if required for one or more of the following uses and activities:

a. Temporary alterations;

b. An approved restoration or estuarine enhancement project;

c. Bridge crossing support structures;

d. Submerged cable, sewer line, water line or other pipeline.

2. The above mentioned dredging in aquatic areas shall be allowed only if:

a. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

b. No feasible alternative upland locations exist; and

c. Adverse impacts are minimized.

B. When dredging is permitted, the dredging shall be the minimum necessary to accomplish the proposed use.

C. Erosion, sedimentation, increased flood hazard and other undesirable changes in circulation shall be avoided.

D. The timing of dredging shall be coordinated with state and federal resource agencies, local governments, and private interests, to ensure adequate protection of estuarine resources

(fish runs, spawning, benthic productivity, wildlife, etc.) and to minimize interference with recreational fishing activities.

E. Adverse short-term effects of dredging such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of the food chain, loss of benthic productivity, and disturbance of fish runs and important localized biological communities shall be minimized.

F. Impacts on areas adjacent to the dredging project such as destabilization of fine-textured sediments, erosion, siltation and other undesirable changes in circulation patterns, shall be minimized. (Ord. 95-21 § 7; Ord. 94-29 § 5; Ord. 86-10 § 12; Ord. 79-4 § 1 (6.290))

17.86.290 Estuarine fill.

The following specific conditional use standards apply to estuarine fill:

A. Basic Requirements.

1. Fill in estuarine areas shall be permitted only if required for:

a. Maintenance and protection of man-made structures existing as of October 7, 1977;

b. Active restoration or estuarine enhancement;

c. Bridge crossing support structures;

d. Temporary alterations;

e. In conjunction with a use for which an exception has been taken.

2. Filing in estuarine areas shall be allowed only if:

a. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

b. No alternative upland locations exist; and

c. Adverse impacts are minimized.

B. The applicant shall present evidence that impacts on the following will be minimized:

1. Fish and wildlife habitats and essential properties of the estuarine resource (e.g., dynamic geologic processes, continued biological productivity, unique or endemic communities or organisms, species diversity);

2. Water quality and water circulation;

3. Recreational use of the estuary.

C. A fill shall be the minimum necessary to achieve the proposed use.

D. The fill's exterior shall be suitably stabilized. (Ord. 95-21 § 8; Ord. 86-10 § 13; Ord. 79-4 § 1 (6.300))

17.86.300 Estuarine bridge crossing.

The following specific conditional use standards apply to bridge crossings:

A. Land transportation facilities shall not be located in estuarine areas except where bridge crossings are needed and where no feasible alternative upland route exists.

B. The applicant shall present evidence that the proposed bridge crossing will minimize impacts on the following:

1. Fish and wildlife habitats and essential properties of the estuary;

2. Water quality and water circulation;

3. Recreational use of the estuary, including public access.

C. A public need for the bridge shall be demonstrated. (Ord. 94-29 § 6; Ord. 86-10 § 14; Ord. 79-4 § 1 (6.310))

17.86.310 Estuarine pilings.

The following specific conditional use standards apply to pilings:

A. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights, and:

1. No feasible alternative upland locations exist; and

2. Adverse impacts are minimized.

B. Piling installation shall be permitted only in conjunction with a permitted or conditional use.

C. Piling installation shall be the minimum necessary to accomplish the proposed use.

D. The applicant shall present evidence that the proposed piling is designed and constructed to minimize adverse impacts on the following:

1. Boating;

2. Aquatic life and habitat;

3. Water circulation and sediment transport;

4. Water quality;

5. Recreational uses. (Ord. 95-21 § 9; Ord. 94-29 § 7; Ord. 79-4 § 1 (6.320))

17.86.320 Dredging and filling mitigation.

Mitigation for dredge or fill within estuarine waters or intertidal wetlands shall be required by the director of the Division of State Lands (under the provisions of ORS 541.605 through 541.665). The suitability of a mitigation proposal for a given project shall be determined by the director of the Division of State Lands. (Ord. 89-3 § 1; Ord. 79-4 § 1 (6.335))

17.86.330 Preservation grading.

Conditional use permits for preservation grading may be approved only if the planning commission adopts specific findings addressing the following:

A. All applicable Comprehensive Plan policies.

B. Measures to be taken to ensure the dunes sustain an adequate sand volume in order to withstand the erosional effects of (an) extreme storm(s) and to minimize any potential for wave overtopping and inundation (flooding) of backshore.

C. Measures to be taken to mitigate weak points in the dune system (e.g., adjacent to trails), by repairing areas subject to localized blowouts from wind or waves in order to maintain the dune buffer from erosion and potentially being breached during a storm.

D. Measures to be taken to maintain valuable habitat for a wide range of plants and animals, including in some cases rare species.

E. Measures to be taken to maintain the integrity and natural beauty of the dunes.

F. Measures to be taken to provide necessary public access, facilities, or utilities to maintain city services. (Ord. 20-03 § 3)

Chapter 17.88 NONCONFORMING LOTS, USES AND STRUCTURES—PRE-EXISTING USES

17.88.010 Purpose.

Within the districts established by the zoning code, or amendments that may later be adopted, there may exist lots, structures, uses of land and structures and characteristics of use which were lawful before the effective date of the zoning code or amendments thereto, but which would be prohibited, regulated, or restricted under the terms of this zoning code or future amendments thereto. The purpose of this chapter is to establish the legal status of such nonconforming uses, structures, lots, and other site improvements by creating provisions through the application of which such uses, structures, lots, and other site improvements may be maintained, altered, reconstructed, expanded or abated. (Ord. 08-1 § 54; Ord. 92-12 § 3; Ord. 88-11 § 2; Ord. 79-4 § 1 (7.010))

17.88.020 Nonconforming lots.

A. If a lot, or the aggregate of contiguous lots held in a single ownership as recorded in the office of the county clerk on or before June 19, 1979, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or the aggregate of contiguous lots may be occupied by a use permitted in the zones, subject to the other requirements of the zone. If the lot does not meet the minimum lot size for the zone in which the property is located, residential use shall be limited to a single-family dwelling.

B. In the R-1, R-2, R-3, and RM zones, where two contiguous lots, which were created prior to the effective date of Ordinance 79-4A, are held in a single ownership and one of the lots has a minimum lot area of at least 4,000 square feet and the other lot has a minimum lot area of at least 2,500 square feet, both the lots may be occupied by a single-family dwelling so long as the total building coverage on the lot does not exceed 40 percent. (Ord. 17-3 § 1; Ord. 06-10 § 11; Ord. 85-1 § 2; Ord. 79-4 § 1 (7.020))

17.88.030 Nonconforming uses.

The following provisions apply to nonconforming uses:

A. "Nonconforming use" means a lawful use which existed prior to the adoption of Ordinance 79-4A on June 19, 1979, or ordinances adopted prior to Ordinance 79-4A and which does not conform to the use requirements of the zone in which it is located, and which does not qualify as a pre-existing use pursuant to Section 17.82.060. Nonconforming uses are those that were made nonconforming by Ordinance 79-4A or ordinances adopted prior to Ordinance 79-4A.

B. Requirements. Nonconforming uses are subject to the following requirements:

1. Reconstruction. If a structure devoted to a nonconforming use is destroyed or damaged by any cause other than actions of the owner of that structure or his agents, that structure may be rebuilt. The construction or reconstruction of the structure shall:

a. Conform to the setbacks, building height and floor area of the structure prior to damage or destruction; or

b. Conform to the setbacks, building height and other requirements of the zone in which it is located.

2. Alteration. A structure devoted to a nonconforming use may be structurally altered, but not enlarged or altered in a manner that changes the external dimensions of the structure.

3. Expansion. A structure devoted to a nonconforming use may not be enlarged, expanded or reconstructed.

4. A building permit for the construction or reconstruction of a structure devoted to a nonconforming use thus damaged or destroyed shall be obtained within one year of the date that the damage or destruction occurred. If a building permit is not obtained within one year, the use of the property shall be in conformance with the requirements of the zone in which it is located.

C. Change of Use. A nonconforming use may be changed to a conforming use. However, after a nonconforming use is changed to a conforming use it shall thereafter not be changed to a use that does not conform to the use zone in which it is located.

D. Discontinuance of Use.

1. If a nonconforming use involving a structure is discontinued for a period of one year, further use of the property shall conform to this chapter.

2. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall conform to this chapter. (Ord. 08-1 § 55; Ord. 88-11 § 3; Ord. 869 § 1; Ord. 79-4 § 1 (7.030))

17.88.040 Nonconforming structures.

The following provisions apply to nonconforming structures:

A. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could no longer be built under the terms of this chapter by reason of restrictions on area, building coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may continue so long as it remains otherwise lawful.

B. A nonconforming structure may be altered in a way that does not increase its nonconformity so long as the proposed alteration (within a three-year period) does not exceed fifty percent of the fair market value of the building, as indicated by the records of the county assessor. Alterations in excess of fifty percent of the fair market value of the building may be authorized in accordance with the provisions of Chapter 17.64, Setback Reduction.

C. A nonconforming structure may be enlarged in a way that does not increase its nonconformity provided that the total building coverage does not exceed forty percent.

D. The enlargement or alteration of a nonconforming structure in a way that increases its nonconformity may be authorized in accordance with the provisions of Chapter 17.64, Setback Reduction.

E. Any structure or portion thereof may be altered to decrease its nonconformity.

F. If a nonconforming structure or nonconforming portion of a structure is destroyed by any means to an extent amounting to eighty percent of its fair market value as indicated by the records of the county assessor, it shall not be reconstructed except in conformity with the provisions of this title. (Ord. 92-11 §§ 72, 73; Ord. 89-3 § 1; Ord. 85-3 § 3; Ord. 79-4 § 1 (7.040))

17.88.050 Prior approval.

Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a structure for which a legal permit has been issued by the city and construction has begun, provided the structure, if nonconforming or intended for a nonconforming use, is completed and is used within two years from the time the permit was issued. (Ord. 79-4 § 1 (7.050))

17.88.060 Pre-existing uses.

The following provisions apply to preexisting uses:

A. Purpose. The purpose of this section is to minimize hardship on land use activities that were subject to restrictive zone changes, or zoning ordinance text amendments, occurring after the adoption of the city's zoning ordinance on June 19, 1979, which were adopted to carry out overall comprehensive plan policies. As a result of these zone boundary or zoning ordinance text amendments, some land use activities no longer comply with the regulations of this title. The preexisting use regulations are a means to provide these affected uses the same general rights as those of their previous use zone. The regulations provide flexibility for expansion of the pre-existing use and as such are intended to be less restrictive than the nonconforming use provisions of Section 17.82.030.

B. Definition. "Pre-existing use" means:

1. A use existing on June 19, 1979 which was a permitted or conditional use in its use zone, as indicated by Ordinance 79-4 and the land use and zoning map contained therein, but which, as the result of a zoning ordinance map or text change, is no longer a permitted or conditional use in its use zone; or

2. A use constructed after June 19, 1979 in a use zone in which it was a permitted or conditional use, but which, as a result of a zoning ordinance map or text change, is no longer a permitted or conditional use in its use zone.

C. Requirements. Pre-existing uses shall be subject to the following requirements:

1. Reconstruction. If a structure devoted to a pre-existing use is destroyed or damaged by any cause other than actions of the owner of that structure or his agents, that structure may be rebuilt. There shall be no time limit on the reconstruction of a damaged or destroyed preexisting use. The construction or reconstruction of the structure shall:

   a. Conform to the setbacks, building height and floor area of the structure prior to damage or destruction;

   b. Conform to the setbacks, building height and other requirements of the zone in which it is located.

2. Building Expansion. Pre-existing uses may be structurally altered, enlarged, expanded or reconstructed on an existing site subject to the standards (e.g., building height, setbacks) of the use zone in which the use is located. In addition, the density of preexisting motels shall not exceed one motel unit per one thousand square feet of site area. Building expansion shall include the construction of nonstructural

improvements such as parking. Building expansion, other than structural alteration, of a pre-existing use that was previously a conditional use, shall require a public hearing pursuant to Sections 17.88.010 through 17.88.190, Public Deliberations and Hearings. The standards for reviewing the proposed building expansion, other than structural alteration, are:

a. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.

b. The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

c. The site has an adequate amount of space for any yards, building, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by city ordinances or desired by the applicant.

d. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.

e. An adequate site layout will be used for transportation activities. Consideration should be given to suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by the city ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements.

f. The site and building design ensure that the use will be compatible with the surrounding area.

3. Site Expansion. A site expansion of a pre-existing use, beyond the existing site, shall occur only:

a. On abutting lots or on lots directly across a public right-of-way from the existing site of the pre-existing use; and

b. Where such lots were in the same ownership as the pre-existing use on the date that the pre-existing use became classified as a pre-existing use; and

c. Where such lots were in the same use zone as the pre-existing use, or where such lots were in a zone which allowed the preexisting use as a permitted or conditional use.

d. Any building shall conform to the standards (e.g., building height, setbacks) of the use zone in which the use is located. In addition, for motels that were previously in the RMA zone, the maximum lot size shall be 20,000 square feet.

4. Definition of Existing Site. For the purpose of paragraphs 2 and 3 of subsection C of this section, "existing site" means the lot or lots on which the pre-existing use was situated at the time the use became nonconforming.

5. Change of Use. A pre-existing use may be changed to a conforming use. However, after a pre-existing use is changed to a conforming use it shall thereafter not be changed to a use that does not conform to the use zone in which it is located.

6. Discontinuance of Use. If a pre-existing use involving a structure is discontinued for a period of 1 year, further use of the property shall conform to the ordinance codified in this chapter.

7. Determination of a Pre-existing Use. Where there is a difference between the city and a property owner on whether a particular use should be classified as a pre-existing use or a nonconforming use, the burden of proof is on the property owner to show that the definitions and requirements of this section have been met. (Ord. 92-12 §§ 4—6; Ord. 92-11 § 74; Ord. 88-11 § 5; Ord. 79-4 § 1 (7.070))

17.88.070 Nonconforming private parking lot.

The use of a private parking lot shall be controlled by the provisions of this section and not those of Section 17.88.030, Nonconforming uses, or Section 17.88.060, Preexisting uses. Where a private pay parking lot existed prior to the effective date of Ordinance 97-13, an amortization period of 4 months, from the effective date of Ordinance 97-26 is established. At the conclusion of the amortization period, the use of a nonconforming private parking lot shall be terminated. (Ord. 97-26 § 1)

Chapter 17.90 VARIANCES

17.90.010 Purpose.

The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties or unnecessary physical hardships may result from the size, shape or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other conditions on the site or in the immediate vicinity or from population densities, street location or traffic conditions in the immediate vicinity. No variance shall be granted to allow the use of a property for a purpose not authorized within the zone in which the proposed use would be located. (Ord. 79-4 § 1 (8.010))

17.90.020 Conditions.

Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood, and otherwise secure the purpose and requirements of this chapter. Guarantees and evidence may be required that such conditions will be and are being complied with. (Ord. 79-4 § 1 (8.020))

17.90.030 Criteria for granting.

A. Variances to a requirement of this title, with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, decks and walls, and other quantitative requirements, may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all four expressly written findings are made:

   1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the comprehensive plan; and

   2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and

   3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the near vicinity; and

   4. That the granting of the variance would support policies contained within the comprehensive plan.

B. Variances in accordance with this section should not ordinarily be granted if the special circumstances on which the applicant relies are a result of the actions of the applicant, or owner, or previous owners. (Ord. 79-4 § 1 (8.030))

17.90.040 Applications.

Application for a variance shall be filed with the city on forms prescribed by the city. (Ord. 89-3 § 1; Ord. 79-4 § 1 (8.050))

17.90.050 Investigation and report.

The city manager shall make or cause to be made an investigation to provide necessary information to ensure that the action on each application is consistent with the variance criteria and shall make a recommendation to the city planning commission. (Ord. 89-3 § 1; Ord. 79-4 § 1 (8.060))

17.90.060 Vested interest in approved variances.

A. A valid variance supercedes conflicting provisions of subsequent rezonings or amendments to the ordinance codified in this chapter unless specifically provided otherwise by the provisions of the section or the conditions of approval to the variance.

B. Variances shall be automatically revoked if not exercised within six months of the date of approval.

C. Applications for which a substantially similar application has been denied shall be heard by the planning commission only after a period of six months has elapsed. (Ord. 79-4 § 1 (8.090)).

17.90.070 Off-street parking and loading facilities.

A. Variances to requirements of this title with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the planning commission if, on the basis of the application, investigation and the evidence submitted by the applicant, all three of the following expressly written findings are made:

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this title; or the granting of the variance will protect a wetland or wetland buffer area; and

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets;

3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this title or policies contained within the comprehensive plan.

B. Where a variance request is being reviewed under this section, only the criteria of this section shall be addressed. The criteria of Section 17.84.030 are not applicable. (Ord. 94-29 § 8; Ord. 89-3 § 1; Ord. 79-4 § 1 (8.040))

17.90.080 Subdivision Variance—Applications required.

Applications are required for subdivision variances in the following circumstances:

A. General. Application for a general variance shall be submitted in writing by the subdivider or partitioner when the tentative plan is submitted for consideration. The application shall state fully the grounds for the request and all the facts relied upon by the applicant in making such a request.

B. The planning commission shall consider the application for a variance at the same meeting at which it considers the tentative plan. The variance may be approved or approved subject to conditions provided the planning commission finds that the following standards are met:

1. That there are special circumstances or conditions affecting such property;

2. That the exception is necessary for the proper design and/or function of the subdivision; and

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated. Examples of what may be deemed injurious to other property are (but are not limited to): increased risk of geologic hazard, reduction of privacy, impact upon a significant view and additional traffic generation. (Ord. 95-20 § 1)

C. Cluster Development. Application for such variance shall be made in writing by the subdivider when the tentative plan is submitted for consideration. All facts relied upon by the petitioner shall be fully stated and supplemented with maps, plans or other additional data which may aid the commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan. (Ord. 95-20 § 1)

1. The planning commission may authorize a variance from these regulations in case of a plan for cluster development which, in the judgment of the planning commission, provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs. In making its findings, as required in this chapter, the

planning commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the planning commission finds:

a. The proposed project will constitute a desirable and stable community development and carry out the purposes of the comprehensive plan with regard to the preservation of natural features;

b. The proposed project will be in harmony with adjacent areas. (Ord. 95-20 § 1)

Chapter 17.92 GRADING, EROSION AND SEDIMENTATION CONTROL

17.92.010 Purpose.

The purpose of this chapter is to: (1) minimize hazards associated with grading; (2) minimize the erosion of land during clearing, excavation, grading, construction, and post-construction activities; (3) prevent the transport of sediment into water courses, wetlands, riparian areas, thus protecting water quality and fish and wildlife habitat; and (4) prevent the transport of sediment onto adjacent property. (Ord. 98-5 § 1)

17.92.020 Grading and erosion control permit.

A. Development Permit Required.

1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:

a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse, or wetland; or

b. The proposed clearing, grading, filling, or excavation is located more than one hundred feet from a stream or watercourse or wetland and the affected area exceeds 250 square feet; or

c. The proposed volume of excavation, fill or any combination of excavation and fill exceeds 10 cubic yards in a calendar year.

2. A development permit for regulated activities in conjunction with a structure requiring a building permit shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(1).

3. A development permit for regulated activities in conjunction with a subdivision or partition shall be reviewed in conjunction with construction drawings as required by Section 17.124.020.

4. A development permit for regulated activities not in conjunction with building permit, subdivision, or partition shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(2). However, notice to adjacent property owners, as specified by Section 17.92.010(C)(2)(d), is not required.

B. Exceptions. The following are exempt from the requirements of Section 17.62.030(A):

1. Residential landscaping and gardening activities up to 2,000 square feet in area;

2. Forest management undertaken pursuant to Section 17.80.170; or

3. Construction which disturbs 5 acres or more. Such activities are regulated by the Oregon Department of Environmental Quality through its storm water program.

C. Information Required for a Development Permit.

1. An application for a development permit for regulated activities subject to the requirements of this chapter shall include the following:

a. A site plan, drawn to an appropriate scale with sufficient dimensions, showing the property line locations, roads, areas where clearing, grading, excavation or filling is to occur, the area where existing vegetative cover will be retained, the location of any streams or wetland areas on or immediately adjacent to the property, the general direction of slopes, the location of the proposed development, and the location of soil stock piles, if any;

b. The type and location of proposed erosion and sedimentation control measures.

2. The city may require a grading plan prepared by a registered civil engineer where the disturbed area has an average slope of 20 percent or greater, the disturbed area is located in a geologic hazard area or is part of a subdivision or partition. Such a grading plan shall include the following additional information:

a. Existing and proposed contours of the property, at 2-foot contour intervals;

b. Location of existing structures and buildings, including those within 25 feet of the development site on adjacent property;

c. Design details for proposed retaining walls; and

d. The direction of drainage flow and detailed plans and locations of all surface and subsurface drainage devices to be constructed.

3. The city may require that the sedimentation and erosion control plan be prepared by a registered civil engineer where the disturbed area is greater than 1 acre in size, or the disturbed area has an average slope of 20 percent or greater. (Ord. 98-5 § 1)

17.92.030 Grading standards.

A. The review and approval of development permits involving grading shall be based on the conformance of the proposed development plans with the following standards. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards.

1. Cuts.

a. Designs shall minimize the need for cuts;

b. The slope of cut surfaces shall not be steeper than is safe for the intended use and shall not be steeper than 2 horizontal to 1 vertical unless an engineering report finds that a cut at a steeper slope will be stable and not create a hazard to public or private property;

c. Cuts shall not remove the toe of any slope where a potential land slide exists;

d. Cuts shall be set back from property lines so as not to endanger or disturb adjoining property; and

e. Retaining walls shall be constructed in accordance with Section 2308(b) of the Oregon State Structural Specialty Code.

2. Fills.

a. Designs shall minimize the need for fills;

b. The slope of fill surfaces shall not be steeper than is safe for the intended use and shall not be steeper than 2 horizontal to 1 vertical unless an engineering report finds that a steeper slope will be stable and not create a hazard to public or private property. Fill slopes shall not be constructed on natural slopes steeper than 2 horizontal to 1 vertical;

c. Fills shall be set back from property lines so as not to endanger or disturb adjoining property;

d. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, and scarifying to provide a bond with the new fill; and

e. Any structural fill shall be designed by a registered engineer, in accordance with standard engineering practices.

3. Drainage.

a. Proposed grading shall not alter drainage patterns so that additional storm water is directed onto adjoining property; and

b. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability. (Ord. 98-5 § 1)

17.92.040 Erosion and sedimentation control standards.

A. The review and approval of development permits for regulated activities subject to this chapter shall be based on the conformance of the development plans with the standards of this section. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards. The city manager may require modifications to the erosion and sedimentation control plan at any time if the plan is ineffective in preventing the discharge of significant amounts of sediment onto surface waters, wetlands, or adjacent property.

B. The design standards and specifications contained in “Soil Erosion Guidance” prepared by the Columbia River Estuary Study Taskforce (CREST), are incorporated into this chapter and are made a part hereof by reference for the purpose of delineating procedures and methods of operation for erosion and sedimentation control measures.

C. Standards.

1. Natural vegetation should be retained and protected wherever possible.

2. Stream and wetland areas shall only be disturbed in conformance with the requirements of Chapter 17.100 Wetland Overlay Zone and Chapter 17.114 Stream Corridor Protection.

3. In dune areas, erosion and sedimentation control measures shall also meet the requirements of Section 17.108.020, wind erosion prevention plan.

4. Sedimentation barriers, such as filter fences and straw bales, shall be placed to control sedimentation from entering streams, wetlands, or adjoining property. The sedimentation barriers shall be installed prior to site clearance or grading activities.

5. Critical areas, as determined by the city manager, cleared of vegetation may be required to be temporarily stabilized with mulch, sod, mat or blanket in combination with seeding, or equivalent nonvegetative materials such as mat or blanket if in the opinion of the manager such an area represents an erosion hazard. Prior to the completion of construction, such slopes shall be permanently stabilized by seeding.

6. Storm water inlets and culverts shall be protected by sediment traps or filter barriers.

7. Soil storage piles or fill shall be located so as to minimize the potential for sedimentation of streams, wetlands or adjacent property. Where, in the opinion of the manager, a soil storage area or fill has the potential for causing sedimentation of streams, wetlands or adjoining property, the manager may require temporary stabilization measures.

8. Temporary sedimentation control, not in conjunction with a structure, may be required.

9. Erosion and sedimentation control measures shall be maintained during the period of land disturbance and site development in a manner that ensures adequate performance.

10. The city manager may require a graveled entrance road, or equivalent, of sufficient length, depth, and width to prevent sedimentation from being tracked onto streets.

11. Trapped sediment and other disturbed soils resulting from sediment control measures shall be removed or permanently stabilized to prevent further erosion and sedimentation.

12. Measurable amounts of sediment that leave the site shall be cleaned up and placed back on the site or properly disposed of.

13. All temporary erosion and sedimentation control measures shall remain in place until the disturbed area is stabilized with permanent vegetation.

14. Under no conditions shall sediment from the construction site be washed into storm sewers, drainage ways or streams.

15. A ground cover will be established on exposed soils as soon as possible after finish grading or construction is complete.

16. No more than 10 cubic yards of fill shall be placed on an undeveloped site within a calendar year.

17. The city may make periodic inspections to ascertain that erosion and sediment control measures as proposed have been implemented and are being effectively maintained. (Ord. 98-5 § 1)

Chapter 17.94 AMENDMENTS

17.94.010 Purpose.

Periodically, as local goals and needs change and new information is obtained, the zoning ordinance, as codified in this title, should be updated. The purpose of the zoning ordinance amendment process is to provide a method for carefully evaluating potential changes to ensure that they are beneficial to the city. (Ord. 79-4 § 1 (9.010))

17.94.020 Authorization to initiate.

An amendment to the text of the ordinance codified in this title may be initiated by the city council, planning commission, a person owning property in the city, or a city resident. An amendment to a zone boundary may only be initiated by the city council, planning commission, or the owner or owners of the property for which the change is proposed. (Ord. 79-4 § 1 (9.020))

17.94.030 Application.

Property owners or local residents who are eligible to initiate an amendment, or their designated representatives, may begin a request for an amendment by filing an application with the city manager, using forms prescribed by the city manager. (Ord. 89-3 § 1; Ord. 79-4 § 1 (9.030))

17.94.040 Investigation and report.

The city manager shall make or cause to be made an investigation to provide necessary information on the consistency of the proposal with the comprehensive plan and the criteria in Section 17.94.070. The report shall provide a recommendation to the planning commission on the proposed amendment. (Ord. 89-3 § 1; Ord. 79-4 § 1 (9.040))

17.94.050 Classification of actions.

A. The following amendment actions are considered a Type IV legislative actions as provided under Article II of this title:

1. An amendment to the text of the ordinance codified in this title;

2. A zone change action that the city manager has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate.

B. The following amendment action is considered a Type III quasi-judicial action under Article II of this title: a zone change that affects a limited area or a limited number of property owners. (Ord. 89-3 § 1; Ord. 79-4 § 1 (9.050))

17.94.060 Criteria.

A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the comprehensive plan; and

2. The amendment will not adversely affect the ability of the city to satisfy land and water use needs.

B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the comprehensive plan;

2. The amendment will either:

a. Satisfy land and water use needs, or

b. Meet transportation demands, or

c. Provide community facilities and services;

3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations;

4. Resource lands, such as wetlands are protected; and

5. The amendment is compatible with the land use development pattern in the vicinity of the request. (Ord. 89-3 § 1; Ord. 79-4 § 1 (9.070))

17.94.070 Conditional zone amendment.

Purpose. 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; or

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

B. Conditions, applied to potential uses other than needed housing types as defined by OAR 660-08-005, may be imposed upon a finding that:

1. They are necessary to achieve a valid public purpose; and

2. They are designed to achieve their intended purpose and are reasonably related to the land or its proposed use.

C. Conditions applied to property with the potential to be used for needed housing types as defined by OAR 660-08-005 may be imposed upon a finding that:

1. They are necessary to achieve a valid public purpose;

2. They are designed to achieve their intended purpose and are reasonably related to the land or its proposed use; and

3. They shall not have the effect, either singly or cumulatively, of discouraging or preventing the construction of needed housing types.

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

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

F. 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.

G. 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.

H. Requests for modification of conditions shall be considered by the zone amendment application and review procedure of Sections 17.94.010 through 17.94.070 of this title.

I. Failure to fulfill any condition attached to a zone boundary change within the specified time limitations shall constitute a violation of this section and may be grounds for the city to initiate a change in the zone boundary pursuant to the procedures of Sections 17.94.010 through 17.94.070. (Ord. 92-5 § 1)

17.94.080 Changes of zone for manufactured dwelling parks.

If an application would change the zone of property which includes all or part of a manufactured dwelling park as defined in O.R.S. 446.003, the city manager shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change. (Ord. 90-10 § 1 (Appx. A § 51); Ord. 86-10 § 14; Ord. 79-4 § 1 (9.085))

Article V – Environmental Resources and Hazards

Chapter 17.98 FLOOD HAZARD OVERLAY (FHO) ZONE

17.98.010 Purpose.

The purpose of the flood hazard overlay zone is to regulate the use of those areas subject to periodic flooding, to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160))

17.98.020 Objectives.

In advancing these principles and the general purposes of the comprehensive plan and zoning ordinance, the specific objectives of this zone are as follows:

A. To combine with the present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the city;

B. To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;

C. To minimize the need for rescue and relief efforts associated with flooding;

D. To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities located in flood hazard areas;

F. To ensure that potential home and business buyers are notified that property is in a flood area;

G. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160) (1))

17.98.030 General provisions—Applicability.

This chapter applies to all areas of special flood hazards (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the city. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160) (3) (a))

17.98.040 Basis for establishment of special flood hazard areas.

The areas of special flood hazard identified by the Federal Emergency Management Agency through a scientific and engineering report entitled "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas", dated June 20, 2018" with accompanying Flood Insurance Rate Maps and Flood Boundary Maps and any revision thereto, is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the City Hall. (Ord. 18-3 § 3; Ord. 10-10 § 3; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(3)(b))

17.98.050 Compliance.

No structure or land shall be located, extended, converted, or altered without full compliance with the terms of the ordinance codified in this chapter and other applicable regulations. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(3)(c))

17.98.060 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1(3.160)(3)(d))

17.98.070 Establishment of permit.

A building/development permit is required in conformance with the provisions of this chapter. The permit is for all structures including manufactured homes, as set forth in Section 17.98.030, and for all developments including fill and other activities, also as defined in Section 17.98.030. Application for a building/development permit shall be made to the building official on forms furnished by him or her and shall specifically include the following information:

A. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

B. Elevation in relation to mean sea level to which any structure has been floodproofed;

C. Certification by a registered professional engineer or architect that the floodproofing method for any nonresidential structure meets the floodproofing criteria in Section 17.98.190;

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1(3.160)(4)(a))

17.98.080 Duties and responsibilities.

A. Duties of Building Official. The building official is designated to administer and implement the flood hazard overlay zone. The duties of the building official include, but are not limited to, permit review:

1. Review of all development permits to determine that the permit requirements and conditions of this chapter have been satisfied;

2. Review all development permits to require that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;

3. Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 17.98.050, Basis for establishment of special flood hazard areas, the building official shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source in order to administer Section 17.98.180, Residential construction, and Section 17.98.190, Nonresidential construction.

C. Information to be Obtained and Maintained. Where base flood elevation data is provided through the flood insurance study or required as in subsection B of this section, the building official shall:

1. Verify and record actual elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawlspaces) of all new or substantially improved structures and whether or not the structure contains a basement;

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Maintain the floodproofing certifications required in Section 17.98.080 (C);

3. Maintain for public inspection all records pertaining to the provisions of this chapter;

4. In coastal high-hazard areas, obtain certification from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.

D. Alteration of Watercourses. The building official shall:

1. Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. The building official shall make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in Section 17.98.100. (Ord. 10-10 §§ 4, 5; Ord. 08-6 §§ 6, 7; Ord. 90-10 § 1 (Appx. A § 26); Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1(3.160)(4)(b)—(f))

17.98.090 Appeals and variances.

A. Appeals. The planning commission, pursuant to Chapter 17.18, shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision, or determination in the enforcement or administration of this chapter.

1. In considering an appeal, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

2. The decision of the planning commission may be appealed pursuant to Chapter 17.18.

B. Variances. Variances shall be considered by the planning commission pursuant to the procedural requirements of Chapter 17.16.

1. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

2. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all variance criteria and otherwise complies with Section 17.98.120.

3. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the standards in Section 17.98.100 (A)(1) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

4. Variances may be issued for the rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the variance criteria and standards of this section provided that the alteration will not preclude the structure's continued designation as a "historic structure. "

5. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

6. Variances shall be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all of the following criteria are met:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

d. The variance is the minimum necessary, considering the flood hazard, to afford relief.

7. Upon consideration of the factors of Section 17.98.100 (A)(1) and the purposes of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

8. The action of the planning commission may be appealed pursuant to Chapter 17.18.

C. The applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 18-3 § 4; Ord. 08-6 §§ 8—12; Ord. 90-10 § 1 (Appx. A § 27); Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(4)(g))

17.98.100 Flood hazard reduction—Generally.

In the Flood Hazard Overlay Zone (FHO zone) the general provisions set out in Sections17.98.120 through 17.98.160 are required. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(a))

17.98.110 Anchoring.

A. All new construction and substantial improvement shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

B. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval. (Ord. 90-10 § 1 (Appx. A § 28); Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(a)(1))

C.

17.98.120 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

C. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be elevated to 1 foot above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. 90-10 § 1 (Appx. A § 29); Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(a)(2))

17.98.130 Crawlspace construction.

A. Crawlspace Construction. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:*

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in subsection B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

2. The crawlspace is an enclosed area below the base flood elevation (BFE) and as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

3. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

4. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

5. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

6. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

7. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

8. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawlspace. For velocities in excess of 5 feet per second, other foundation types should be used. (Ord. 08-6 § 13)

17.98.140 Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality. (Ord. 10-10 § 6; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(a)(3))

17.98.150 Subdivision proposals.

A. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

B. All subdivision proposals shall be consistent with the need to minimize flood damage.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damages.

D. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less). (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(a)(4))

17.98.160 Review of building permits.

Where elevation data is not available either through the flood insurance study or from another authoritative source (Section 17.98.090 (B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high-water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above the natural grade in these zones may result in higher insurance rates. (Ord. 10-10 § 7; Ord. 99-3 § 3; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(a)(5))

17.98.170 Specific standards.

In all areas of special flood hazards (FHO zone) where base flood elevation data has been provided as set forth in Section 17.98.050, Basis for Establishing the Areas of Special Flood Hazard, or Section 17.98.090 (B), Use of Other Base Flood Data, the provisions in Sections 17.98.180 through 17.98.220 are required. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(b))

17.98.180 Residential construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

B. The bottom of all openings shall be no higher than 1 foot above grade.

C. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 08-6 § 15; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(b)(1))

17.98.190 Nonresidential construction.

A. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated according to Table 2-1 the American Society of Civil Engineers, Flood Resistant Design and Construction Standard (ASCE 24); or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specification and plans. Such certifications shall be provided to the official as set forth in Section 17.98.090 (C)(2)(b).

B. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 17.98.180.

C. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level). (Ord. 10-10 § 8; Ord. 08-6 § 16; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160) (5)(b)(2))

17.98.200 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 08-6 § 14)

17.98.210 Manufactured homes.

All manufactured homes to be placed or substantially improved within zones on the FIRM shall comply with the following:

A. The ground area reserved for the placement of a manufactured dwelling shall be a minimum of twelve inches above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of twelve inches above base flood elevation.

C. The manufactured dwelling shall be anchored to prevent flotation collapse and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

D. Electrical crossover connections shall be a minimum of twelve inches above the base flood elevation. (Ord. 10-10 § 9; Ord. 08-6 §§ 17, 18; Ord. 99-3 § 4; Ord. 90-10 § 1 (Appx. A § 30); Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(b)(3))

17.98.220 Recreational vehicles.

Recreational vehicles placed on sites within zone AE on the FIRM shall either:

A. Be on the site for fewer than 180 consecutive days;

B. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

D. Meet the requirements of Section 17.98.200 and the elevation and anchoring requirements for manufactured homes. (Ord. 10-10 § 10; Ord. 99-3 § 5; Ord. 90-10 § 1 (Appx. A § 31); Ord. 79-4 § 1 (3.160)(5)(b)(4))

17.98.230 Coastal high-hazard areas.

Coastal high-hazard areas (V zones) are located within the areas of special flood hazard established in Section 17.98.040. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions also apply:

A. 1. In all new construction and substantial improvements in VE zones shall be elevated on pilings and columns so that:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of 1 foot above the base flood level, and

b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval);

2. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A) (1) (a) and (A) (1) (b) of this section.

B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in VE zones and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

C. All new construction shall be located landward of the reach of mean high tide.

D. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

E. If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access or storage. Such space shall not be used for human habitation.

F. The use of fill for structural support of buildings is prohibited.

G. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

H. All manufactured homes to be placed or substantially improved within VE zones shall meet the standards of Section 17.98.210 (A) through (G).

I. Recreational vehicles placed on sites within VE zones on the FIRM shall either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the requirements of subsections A through G and a permit, pursuant to Section17.98.080, is obtained. (Ord. 10-10 §§ 11—14; Ord. 08-6 § 19; Ord. 993 § 6; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160) (5)(c))

17.98.240 Areas of shallow flooding.

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, a minimum of 1 foot above the depth number specified on the FIRM (at least 2 feet if no depth number is specified);

B. New construction and substantial improvement of nonresidential structures shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least 2 feet if no depth number is specified), or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used compliance shall be certified by a registered professional engineer or architect;

C. Adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures;

D. Recreational vehicles placed on sites within AO Zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, and

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or

3. Meet the requirements of subsections A, B, and C; and the elevation and anchoring requirements for manufactured homes. (Ord. 18-3 § 5; Ord. 10-10 § 15; Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(5)(d))

17.98.250 Use restrictions.

Restrictions regarding height, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the flood hazard overlay zone area. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160) (6)(a))

17.98.260 Prohibited uses.

It is unlawful to erect, alter, maintain or establish in a flood hazard overlay zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Chapter 17.88. (Ord. 87-4 § 1; Ord. 86-16 § 3; Ord. 79-4 § 1 (3.160)(6)(b))

17.98.270 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) are subject to Chapter 17.20, Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 08-6 § 20)

17.98.280 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 08-6 § 21)

Chapter 17.100 OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE

17.100.010 Purpose.

The intent of the oceanfront management overlay (OM) zone is to regulate uses and activities in the affected areas in order to: ensure that development is consistent with the natural limitations of the oceanshore; to ensure that identified recreational, aesthetic, wildlife habitat and other resources are protected; to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of beach and dune areas; and to reduce the hazards to property and human life resulting from both natural events and development activities. (Ord. 20-03 § 2)

17.100.020 General provisions.

A. Zone Boundaries.

1. The OM zone includes the following areas: beaches; active dunes; foredunes, including active foredunes and conditionally stable foredunes which are subject to ocean undercutting and wave overtopping; conditionally stable dunes; interdune areas that are subject to ocean flooding; deflation plains; younger and older stabilized dunes; conditionally stable open sand areas; and lots abutting the ocean shore. The boundaries of the overlay zone shall be those shown on the map titled “Oceanfront Management Overlay Zone, City of Cannon Beach.” If the city has reason to believe that a site, presently not covered by the OM zone, exhibits characteristics that warrant its inclusion in the OM zone, the city shall hire an appropriate expert to undertake a site investigation to determine whether the area contains one or more of the landforms which are contained in the OM zone. If, as the result of the site investigation, it is determined that the site includes landforms covered by the OM zone, the site shall be subject to the requirements of the OM zone.

2. The map titled “Active dune and conditionally stabilized dunes, Cannon Beach, May 1993” is adopted by reference and incorporated into this zone. This map shall form the basis for identifying what constitute active dunes and conditionally stable dunes.

B. Relationship to the Underlying Zone. Uses and activities within the OM zone are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this zone and the underlying zone conflict, the provisions of this zone shall apply.

C. Warning and Disclaimer of Liability. The degree of protection from the effects of erosion or accretion required by this section is considered reasonable for regulatory purposes. This does not imply that development permitted in the OM zone will be free from the effects of erosion or accretion. These provisions shall not create a liability on the part of the city or any officer, employee, or official thereof, for any damages due to erosion or accretion that results from reliance on the provisions of this section or any administrative decision made thereunder. (Ord. 20-03 § 2)

17.100.030 Uses and activities permitted.

A. For lots or right-of-way that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are permitted subject to provisions of Section 17.12.010, Development permits:

1. Foredune breaching, subject to the provisions of Section 17.98.060 (A)(2);

2. Maintenance and repair of an existing shoreline stabilization structure, subject to the provisions of Section 17.86.210 (K);

3. Maintenance and repair of existing streets, sewer or water lines, and drainage improvements other than storm water outfalls or facilities;

4. Private beach access improvements, including stairs, subject to the provisions of Section 17.98.060 (A)(7).

B. For lots or right-of-way that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.70, Design Review:

1. Public beach access improvements, including stairs, subject to the provisions of Section 17.98.060 (A)(7);

2. Maintenance, repair or installation of stormwater outfalls or facilities, which may include infiltration or water quality systems.

C. For lots or right-of-way that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.86, Conditional Uses:

1. Shoreline stabilization, subject to the provisions of Section 17.86.230;

2. Nonstructural shoreline stabilization program, subject to the provisions of Section17.98.060 (A)(5);

3. Preservation grading, subject to the provisions of Section17.98.060 (A)(3);

4. Remedial dune grading, subject to the provisions of Section17.98.060 (A)(4).

5. A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way, or in right-of-way within one hundred feet of a stream, watercourse, or wetland. Access is new if vehicular access did not previously exist at the location, it was blocked for a period of one year, or an unimproved right-of-way would be improved to provide vehicular access. Alteration of an existing access is not new access.

D. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provisions of Section 17.12.010, Development permits:

1. Private beach access improvements, subject to the provisions of Section17.98.060 (A)(7);

2. Maintenance and repair to existing shoreline stabilization structure, subject to the provisions of Section 17.86.230 (K);

3. Remedial dune grading.

E. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provision of Chapter 17.70, Design Review:

1. Public beach access improvements, subject to the provisions of Section 17.98.060 (A)(7);

2. Stormwater outfalls or facilities, which may include infiltration or water quality systems.

F. For lots or right-of-way that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: the following uses and activities are permitted subject to provision of Chapter 17.86, Conditional Uses:

1. Shoreline stabilization, subject to the provisions of Section 17.86.230;

2. Nonstructural shoreline stabilization program, subject to the provisions of Section 17.98.060 (A)(5);

3. A new road, driveway approach, or other access that has fifty feet or more of linear length in OM Zone right-of-way, or in right-of-way within one hundred feet of a stream, watercourse or wetland. Access is new if vehicular access did not previously exist at the location, it was blocked for a period of one year, or an unimproved right-of-way would be improved to provide vehicular access. Alteration of an existing access is not new access. (Ord. 21-05 § 1; Ord. 20-03 § 2)

17.100.040 Uses and activities prohibited.

A. Residential development and commercial and industrial buildings shall be prohibited on beaches, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding. The location of these areas on a parcel of land shall be determined in accordance with Section 17.98.050 (B)(3).

B. Removal of sand from the beach, active dunes, or conditionally stable dunes subject to wave overtopping or ocean undercutting.

C. Removal of stabilizing vegetation, except as part of a foredune grading plan provided for by Section 17.98.060 (A)(3), or a nonstructural shoreline stabilization program provided for by Section 17.98.060 (A)(5), or as provided for by Section 17.108.030. (Ord. 20-03 § 2)

17.100.050 General standards.

A. The uses and activities permitted in all areas contained in the OM zone are subject to the following:

1. Flood Hazard Overlay Zone, Chapter 17.96;

2. Geologic hazard areas requirements, Chapter 17.106;

3. Maintenance of beach access in conformance with Section 17.60.030;

4. All construction proposed west of the Oregon Coordinate Line shall obtain permits as required by the Oregon Parks and Recreation Department;

5. All construction proposed west of the line of vegetation shall obtain permits as required under the Oregon Removal-Fill Law;

6. Oceanfront Setback. For all lots abutting the oceanshore, the ocean yard shall be determined by the oceanfront setback line.

a. The location of the oceanfront setback line for a given lot depends on the location of buildings on lots abutting the oceanshore in the vicinity of the proposed building site and upon the location and orientation of the Oregon Coordinate Line.

b. For the purpose of determining the oceanfront setback line, the term “building” refers to the residential or commercial structures on a lot. The term “building” does not include accessory structures.

c. The oceanfront setback line for a parcel is determined as follows:

i. Determine the affected buildings; the affected buildings are those located 100 feet north and 100 feet south of the parcel’s side lot lines.

ii. Determine the setback from the Oregon Coordinate Line for each building identified in subsection (A)(6)(c)(i) of this section.

iii. Calculate the average of the setbacks of each of the buildings identified in subsection (A)(6)(c)(ii) of this section.

d. If there are no buildings identified by subsection (A)(6)(c)(i) of this section, then the oceanfront setback line shall be determined by buildings that are located two hundred feet north and two hundred feet south of the parcel’s side lot lines.

e. Where a building identified by either subsection (A)(6)(c)(i) of this section or subsection (A)(6)(d) of this section extends beyond one hundred feet of the lot in question, only that portion of the building within one hundred feet of the lot in question is used to calculate the oceanfront setback.

f. The setback from the Oregon Coordinate Line is measured from the most oceanward point of a building which is thirty inches or higher above the grade at the point being measured. Projections into yards, which conform to Section 17.60.080, shall not be incorporated into the required measurements.

g. The oceanfront setback line shall be parallel with the Oregon Coordinate Line and measurements from buildings shall be perpendicular to the Oregon Coordinate Line.

h. The minimum ocean yard setback shall be 15 feet.

i. Notwithstanding the above provisions, the building official may require a greater oceanfront setback where information in a geologic site investigation report indicates a greater setback is required to protect the building from erosion hazard.

j. As part of the approval of a subdivision, the city may approve the oceanfront setback for the lots contained in the subdivision. At the time of building construction, the oceanfront setback for such a lot shall be the setback established by the approved subdivision and not the oceanfront setback as it would be determined by subsections (A)(6)(a) through (i) of this section. Before granting a building permit, the building official shall receive assurance satisfactory to such official that the location of the oceanfront setback for said lot has been specified at the required location on the plat or has been incorporated into the deed restriction against the lot.

B. The uses and activities permitted in beach and dune areas contained in the OM zone are subject to the following additional standards:

1. For uses and activities located in beach and dune areas, other than older stabilized dunes, findings shall address the following:

a. The adverse effects the proposed development might have on the site and adjacent areas;

b. Temporary and permanent stabilization proposed and the planned maintenance of new and existing vegetation;

c. Methods for protecting the surrounding area from any adverse effects of the development; and

d. Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

2. For uses and activities located on beaches, active dunes, on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas that are subject to ocean flooding, findings shall address the following:

a. The standards of subsection (B)(1) of this section;

b. The development is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

c. The development is designed to minimize adverse environmental effects.

3. Determination of Building Line. For residential or commercial buildings proposed for lots that may consist of the beach, an active dune, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the geologic site investigation required by Chapter 17.106 shall include a determination of where these features are located on the lot. The map titled "Active and conditionally stable dunes, Cannon Beach, May 1993" shall be used as the basis for locating the active dune area. The "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas", dated June 20, 2018" and the "Active and conditionally stable dunes, Cannon Beach, May 1993" shall be used as the basis for locating the conditionally stable foredunes that are subject to wave overtopping and interdune areas subject to ocean flooding. Conditionally stable foredunes subject to ocean undercutting shall be determined as part of the site investigation report.

4. Conformance with the dune construction standards of Chapter 17.108. (Ord. 20-03 § 2)

17.100.060 Specific standards.

A. The uses and activities permitted in all areas contained in the OM zone are subject to the following specific standards:

1. Shoreline stabilization subject to the standards of Chapter 17.86.230.

2. Foredune Breaching.

a. The breaching is required to replenish sand supply in interdune areas or is undertaken on a temporary basis for emergency purposes such as fire control or the alleviation of flood hazard.

b. There are no other reasonable alternatives to alleviate the emergency.

c. The breaching does not endanger existing development.

d. The area affected by the breaching is restored according to an approved restoration plan prepared by a registered geologist, or other qualified individual approved by the city. At a minimum, foredunes shall be restored to a dune profile which provides flood protection equivalent to that prior to breaching. The restoration plan shall also include appropriate revegetation.

3. Preservation Grading. Grading or sand movement necessary to repair blow-outs, erosion or maintain public access or facilities, which may be allowed in active dune areas only if the area is committed to development and meeting the requirements of Comprehensive Plan Foredune Management Policy. Preservation Grading does not include grading necessary for the repair, maintenance or installation of stormwater outfalls or facilities, including infiltration and

water quality systems. Preservation Grading Conditional Use Permit requests for preservation grading shall include the following information:

a. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100-year flood elevation established in the "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas," dated June 20, 2018; plus an additional 1 vertical foot safety buffer for predicted sea level rise. The minimal cross-section area that must be maintained is 1,100 square feet of dune above the stillwater flood elevation.

b. Identify and set priorities for low and narrow dune areas which need to be built up.

c. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities. Placement of sand on the beach may be permitted as part of a foredune grading permit if sand deposition does not exceed a depth of twelve centimeters. Placement of sand along the seaward face of the dune may be permitted as part of a foredune grading plan if the resulting slope is no steeper than 25 to 33 percent.

d. The cumulative volume of proposed grading.

e. Preservation grading plans shall be submitted to the soil and water district for their comments and any necessary permits shall be obtained from the Oregon State Parks and Recreation.

f. A monitoring plan. Monitoring is mandatory, and the responsibility of the permit holder. Annual monitoring reports are required for the first and second years following grading activities and may be requested by the planning commission for subsequent years. Monitoring reports shall include:

I. The area, volume, and location of grading;

II. The area(s) where graded sand was deposited;

III. Erosion control measures;

IV. Revegetation measures;

V. Impacts on wildlife habitat, including razor clam habitat;

VI. Any other requirements of the approved grading plan; and

VII. Any conditions of approval imposed by the planning commission.

The city shall retain the services of independent outside experts, at the expense of the permit holder, to review monitoring report and to make recommendations to the city for corrective actions or for future grading, disposition, and revegetation activities. The monitoring report may be included in the review, if conducted by an agreed upon outside expert, at the expense of the permit holder and contracted by the city. Failure to submit the required monitoring reports will result in a penalty and will prevent future grading permits to be issued for the area for a period of five years beginning after the monitoring reports are brought up to date.

g. Permits for preservation grading shall not be approved unless they comply with applicable policies of the Comprehensive Plan, including Sand Dune Construction and Foredune Management Policies.

h. Permits for preservation grading may be approved if the Planning Commission finds all of the following criteria have been met:

I. The proposal achieves a balance of these four objectives:

(A) To ensure the dunes sustain an adequate sand volume in order to withstand the erosional effects of (an) extreme storm(s) and to minimize any potential for wave overtopping and inundation (flooding) of backshore.

(B) To strengthen weak points in the dune system (e.g., adjacent to trails), by repairing areas subject to localized blowouts from wind or waves in order to prevent the dune buffer from erosion and potentially being breached during a storm.

(C) To maintain valuable habitat for a wide range of plants and animals, such as shellfish, including razor clams, and in some cases rare species.

(D) To maintain the integrity and natural beauty of the dunes, while providing for the necessary functions of public access, facilities, and utilities.

II. The annual cumulative volume of preservation grading does not exceed 2,500 cubic yards.

III. The preservation does not remove sand form the beach-foredune system.

IV. The preservation grading sand deposition area will not impact adjoining property.

i. Revegetation of graded areas is mandatory. This can be accomplished with a combination of European Beach grass (*A. arenaria*); non-native American dune grass (*A. breviligulata*); the PNW native dune grass (*E. mollis*); or another revegetation plan approved by the planning commission. Graded areas shall be stabilized immediately after grading. Where immediate revegetation is not possible, or where revegetation fails, temporary erosion control measures shall be implemented until revegetation can be completed. Fire-resistant species are the preferred stabilizing vegetation within 25 feet of existing dwellings or structures, but fire-

resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

j. Maintenance activities not requiring a separate administrative permit under the approved conditional use permit may include:

I. Additional plantings or certified organic fertilizer applications in areas where plantings performed poorly.

4. Remedial Dune Grading. “Remedial grading” is the clearing of sand necessary to maintain the function of a structure and includes the removal of sand that has built up against exterior walls, doors, or windows of a structure and that blocks access to a residential or commercial structure, or any public facility, utility, or infrastructure. Permits for remedial grading may be approved subject to the following requirements:

a. Rear yard sand may be removed to the level of the top sill of the foundation, as measured from within 35 feet of the habitable structure. From the ten-foot line, the graded area shall slope upward to the

elevation of the fronting foredune. This slope shall not exceed 50 percent.

b. Side yard sand that is landward of the structure may be removed to the top of the sill of the foundations, provided grading in this area does not create a slope in excess of 50 percent with adjacent properties.

c. Where the front yard is seaward of the structure, sand may be removed to the level of the top sill of the foundation, as measured from within 35 feet of the habitable structure. From the 10-foot line, the graded area shall slope upward of the elevation of the fronting foredune. This slope shall not exceed 50 percent.

d. Grading shall not lower the front yard below the level of adjacent streets or roads, except to clear sidewalks or driveways.

Areas graded more than 3 feet in height shall be immediately replanted and fertilized. All graded sand must remain within the littoral cell. Graded sand should be used to fill adjacent low dune areas. Graded sand may also be used to nourish identified areas as needed. The height of the foredune shall not be lowered. Fire-resistant species are the preferred stabilizing vegetation within 25 feet of existing dwellings or structures. Fire-resistant vegetation shall only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

5. Nonstructural Shoreline Stabilization Program.

a. The program is prepared by a qualified individual approved by the city. The program shall be based on an analysis of the area subject to accretion and/or erosion. The area selected for management shall be found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.

b. The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.

c. Fire-resistant species are the preferred stabilizing vegetation within 25 feet of existing dwellings or structures. Fire-resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

d. Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.

e. The affected property owners shall establish a mechanism that provides for the on-going management of the proposed program.

f. The impact of the program shall be monitored. For multiyear programs, an annual report detailing the effects of the program during the previous year shall be presented to the planning commission. The report shall include recommendations for program modification. For a one-year program, a final report detailing the effects of the program shall be presented to the planning commission.

g. Areas that accrete as the result of a stabilization program will not form the basis for reestablishing the location of the building line specified by Section 17.98.050 (B)(3).

6. Beach Access. The city may require the planting of stabilizing vegetation, fencing or signage in order to minimize the potential for wind erosion that may be caused by the use of the beach access on adjacent areas.

7. Groundwater Protection. The proposed development will not result in the drawdown of the groundwater supply in a manner that would lead to: (a) the loss of stabilizing vegetation; (b) the loss of water quality; (c) salt water intrusion into the water supply; or (d) significant lowering of interdune water level. Building permits for single-family dwellings are exempt from this requirement if appropriate findings are provided at the time of subdivision approval.

8. Public Access Provision. A development (e.g., subdivision or planned development) that includes ten or more dwelling units, shall provide common beach access trails or walkways open to the general public. At a minimum, there shall be 1 beach access for each 400 feet of beach frontage. This requirement is in addition to access provided by existing street-ends.

9. Structures in the Ocean Yard. The following structures are permitted in an ocean yard:

a. Fences subject to the provisions of Section 17.72.020 (C);

b. Decks subject to the provisions of Section 17.60.080 (E);

c. Beach access stairs subject to Section 17.98.030 (A)(5) and (D)(1). (Ord. 20-03 § 2)

Chapter 17.102 WETLANDS OVERLAY (WO) ZONE

NOTE: Amendments to this chapter are currently under consideration, and the numbering and content is anticipated to change. No edits made.

17.102.010 Purpose.

The purpose of the wetlands overlay zone is to protect wetland areas identified in the city's comprehensive plan from uses and activities that are inconsistent with the maintenance of the wetland functions and values identified for those sites. (Ord. 94-29 § 2)

17.102.020 Mapping.

A. The maps delineating the WO zone boundaries shall be maintained and updated as necessary by the city. The Cannon Beach Local Wetland Inventory maps dated September 20, 1994, shall form the basis for the location of wetlands. The WO zone includes both wetland and wetland buffer areas which abut wetlands. The wetland buffer area has a width of five feet measured from the outer boundaries of the wetland.

B. Site-specific wetland delineations or determinations are required to determine the exact location of the WO zone boundary. Wetland determinations and delineations shall be conducted in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual along with any supporting technical or guidance documents issued by the Division of State Lands and applicable guidance issued by the U.S. Army Corps of Engineers for the area in which the wetlands are located.

C. Where a wetland delineation or determination is prepared, the mapping it contains shall replace that of the Cannon Beach Local Wetland Inventory. Wetland delineations or

determinations shall remain valid for a period of not more than five years from the date of their acceptance by the Division of State Lands.

D. The continued reliance on a wetland delineation or determination that is more than five years old requires the following additional new information:

1. An onsite re-inspection of the site by a qualified individual to determine if there has been any change in circumstances;

2. If no change in circumstances is found, a short report noting or including:

a. A description of site conditions and any changes between the date of the original wetland determination or delineation and the date of the re-inspection,

b. Any additional maps, aerial photographs or other documents consulted, and

c. Conclusions regarding the accuracy of the original wetland delineation or determination;

3. If a change in circumstances is noted, the information in subsection (D)(2) of this section shall be provided along with:

a. Additional field data, including wetland determination data in conformance with Division of State Lands standards needed to verify and document any change in the status of the wetland area that were or were not identified and mapped as part of the original delineation or determination,

b. A revised wetland map,

c. Data, documentation, and other information as needed to establish the nature and timing of the activity or activities that resulted in the change in circumstances.

E. Protected wetlands that are legally filled under this chapter are no longer protected wetlands, but remain as wetland buffer areas under this overlay zone. Wetland buffer areas that are legally filled under this chapter remain as wetland buffer areas. (Ord. 08-1 § 40; Ord. 94-29 § 2)

17.102.025 Wetland lot-of-record.

A wetland lot-of-record is a lot or contiguous lots held in common ownership on August 4, 1993, that are subject to the provisions of this chapter. A wetland lot-of-record includes upland portions of the contiguous property that are not subject to the provisions of the wetlands overlay zone. “Contiguous” means lots that have a common boundary, and includes lots separated by public streets. A lot-of-record is subject to the provisions of this overlay zone if all or a portion of the lot is in the overlay zone. The objective of the wetland lot-of-record

provision is to permit a property owner a minimum of one dwelling unit on a wetland lot-of-record. A dwelling can be constructed on the wetland portion of a wetland lot-of-record only where there are no upland portions of the wetland lot-of-record that can accommodate a dwelling. The following examples illustrate how the wetland lot-of-record provisions of Section 17.43.030A and Section 17.43.035A are to be applied.

Example 1. A fifteen thousand square foot wetland lot-of-record consisting of three platted five thousand square foot lots all of which are entirely of wetlands; one dwelling unit is permitted.

Example 2. A fifteen thousand square foot wetland lot-of-record consisting of three platted five thousand square foot lots, two of which are entirely wetlands and one of which contains two thousand five hundred square feet of uplands; one dwelling unit is permitted on the upland portion of the lot which contains two thousand five hundred square feet of uplands.

Example 3. A fifteen thousand square foot lot-of-record consisting of three platted five thousand square foot lots, one lot is entirely a wetland, the second lot contains two thousand five hundred square feet of upland and the third lot contains three thousand five hundred square feet of upland; two dwelling units are permitted, one on the upland portion of the lot which contains two thousand five hundred square feet of upland and one on the upland portion of the lot which contains three thousand five hundred square feet of uplands. (Ord. 94-29 § 2)

17.102.030 Uses and activities permitted outright in wetlands.

The following uses and activities may be permitted in the wetlands portion of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, and if permitted outright in the base zone:

A. Single-family dwelling, modular housing, or manufactured home meeting the standards of Section 17.68.020, limited to one dwelling unit on a wetland lot-of-record;

B. Accessory structure or building, as provided for by Section 17.54.030;

C. Underground or above-ground utilities;

D. Vegetation management. (Ord. 21-05 § 2; Ord. 94-29 § 2)

17.102.035 Uses and activities permitted outright in wetland buffer areas.

The following uses and activities may be permitted in wetland buffer areas of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, and. if permitted outright in the base zone:

A. Single-family dwelling, modular housing, or manufactured home meeting the standards of Section 17.68.020, limited to one dwelling unit on a wetland lot-of-record;

B. Accessory structure or building, as provided for by Section 17.54.030;

C. Underground or aboveground utilities;

D. Vegetation management. (Ord. 21-05 § 2; Ord. 94-29 § 2)

17.102.040 Conditional uses and activities permitted in wetlands.

The following uses and activities may be permitted subject to the provision of Chapter 17.80in the wetland portion of the WO zone, subject to applicable standards, if permitted outright or conditionally in the base zone:

A. Commercial structures;

B. Excavation;

C. Wetland enhancement;

D. Compensatory mitigation;

E. Roads or driveways, including an expansion of an existing right-of-way;

F. Footpaths;

G. Point-source stormwater discharge;

H. Alternative stormwater management practices;

I. Subdivisions, replats, partitions and property line adjustments. (Ord. 21-05 § 2; Ord. 94-29 § 2)

17.102.045 Conditional uses and activities permitted in wetland buffer areas.

The following uses and activities may be permitted subject to the provision of Chapter 17.80in wetland buffer areas in the WO zone, subject to applicable standards, if permitted outright or conditionally in the base zone:

A. Commercial structures;

B. Excavation;

C. Wetland enhancement;

D. Compensatory mitigation;

E. Roads or driveways, including an expansion of an existing right-of-way;

F. Bicycle paths;

G. Footpaths;

H. Point-source stormwater discharge;

I. Subdivisions, partitions, lot line adjustments. (Ord. 21-05 § 2; Ord. 94-29 § 2)

17.102.050 Standards.

The following standards are applicable to the uses and activities listed in Sections 17.43.030through 17.43.045. The uses and activities are also subject to the standards of the base zone. The following standards are applicable in all areas under the wetlands overlay zone. “Protected wetlands” are those areas in the wetlands overlay zone that have been identified on the city’s inventory or on a subsequent detailed wetland delineation as wetlands. “Wetland buffer areas” are nonwetland areas in the wetlands overlay zone surrounding the protected wetlands.

A. General Standards. Uses and activities in protected wetlands and in wetland buffer areas are subject to the following general standards. Development may also be subject to specific standards in subsequent subsections.

1. Uses and activities in protected wetlands or wetland buffer areas may be approved only after the following list of alternative actions, listed from highest to lowest priority, have been considered:

a. Avoiding the impact altogether by not taking a certain action or parts of an action (this would include, for example, having the use or activity occur entirely on uplands); and

b. Minimizing impacts by limiting the degree or magnitude of action and its implementation (this would include, for example, reducing the size of the structure or improvement so that protected wetlands or wetland buffer areas are not impacted).

2. Where a use or activity can be located in either the protected wetland or the wetland buffer, preference shall be given to the location of the use or activity in the wetland buffer.

3. Valid permits from the US Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must

be obtained before any of the following activities occur in protected wetlands:

a. Placement of fill (any amount);

b. Construction of any pile-support structure;

c. Excavation (any amount);

d. Compensatory mitigation;

e. Wetland restoration;

f. Wetland enhancement.

4. Where a wetland was identified by the Cannon Beach wetland study as riverine, uses and activities are also subject to the requirements of Chapter 17.71, stream corridor protection.

5. Construction management practices will be employed in protected wetlands and in wetland buffer areas that minimize short-term and long-term impacts on wetlands. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with construction waste or debris, unnecessary or excessive vegetation removal or damage. Construction debris shall be removed from the site and properly disposed of. Tools that require cleaning, including paint tools, masonry equipment, and drywall tools, shall be cleaned in a manner that does not degrade water quality. The building official may require preparation of a detailed management program, indicating how these requirements are to be addressed.

6. Pile-supported construction may use wood piling (treated or untreated), steel piling, concrete piling, or other piling material meeting building code requirements. If treated wood piling or posts are used for structures in protected wetlands, the following standards are applicable:

a. Treated wood shall be completely dry;

b. Treated wood shall not have any wet wood preservative on the wood surface; and

c. The type of chemical treatment chosen shall be the type that minimize possible contamination of the wetland environment.

7. Fill, when permitted, in protected wetlands or in wetland buffer areas is subject to the following standards:

a. All fill material shall be clean and free of contaminants;

b. Filled area sides shall be finished to a stable slope;

c. Measures shall be incorporated into the fill design to minimize erosion or sloughing of fill material into protected wetlands;

d. Fills shall be designed in a manner that does not worsen flooding on adjacent or nearby flood-prone lands, and avoids restricting the flow of water to or through protected wetlands; and

e. Fill side slopes shall be revegetated with native plant species to stabilize the slope.

B. Residential Development. Where and when allowed, a single family dwelling, modular housing, or manufactured home may be permitted in a protected wetland or wetland buffer area subject to the following standards:

1. New dwellings, when permitted, may be placed on piling or on posts, or may be cantilevered, in a manner that allows the free flow of water beneath the structure. No fill material may be used for the residence.

2. Building coverage will be minimized, and in no case shall it exceed two thousand five hundred square feet.

3. Driveways, utilities, landscaping, garages, accessory structures and other uses and activities accessory to a residence shall comply with applicable standards.

C. Commercial Development. Where and when allowed by the base zone, a commercial building may be permitted in a protected wetland or wetland buffer area subject to the following standards:

1. New commercial buildings may be placed on piling or on posts in a manner that

allows the free flow of water beneath the structure. No fill material may be used for commercial buildings in protected wetlands or in wetland buffer areas.

2. Lot coverage will be minimized. Commercial development in protected wetlands or in wetland buffer areas is subject to site design review pursuant to Chapter 17.44.

3. Driveways, parking, utilities, landscaping, accessory structures and other uses and activities accessory to a commercial development shall comply with applicable standards.

D. Accessory Structure or Building. Buildings and structures subordinate to the principal structure may be permitted in protected wetlands and in wetland buffer areas subject to these standards, and subject to the requirements of the base zone:

1. New accessory structures or buildings may be placed on piling or on posts in a manner that allows the free flow of water beneath the structure. No fill material may be used for an accessory structure or building in a protected wetland or in a wetland buffer area.

E. Roads and Driveways. Roads and driveways through protected wetlands or wetland buffer areas may be permitted subject to the following standards:

1. Driveways and roads crossing protected wetlands or wetland buffer areas shall be no wider than necessary to serve their intended purpose.

2. New roads and driveways in protected wetlands or wetland buffer areas may be placed on piling or on fill in a manner that allows the free flow of water beneath the road or driveway. Pile-supported construction is preferred over fill for roads and driveways. Water circulation shall be facilitated through use of culverts or bridges.

F. Utilities. Electric power lines, telephone lines, cable television lines, water lines, wastewater collection lines and natural gas lines may be permitted in protected wetlands and in wetland buffer areas subject to these standards, and subject to the requirements of the base zone:

1. Underground utilities, including water, wastewater, electricity, cable television, telephone and natural gas service, may be routed through protected wetlands in trenches provided the following standards are met:

a. Material removed from the trench is either returned to the trench as back-fill within a reasonable period of time, or, if other material is to be used to back-fill the trench, excess material shall be immediately removed from the protected wetland area. Side-casting into a protected wetland for disposal of material is not permitted;

b. Topsoil and sod shall be conserved during trench construction or maintenance, and replaced on the top of the trench;

c. The ground elevation shall not be altered as a result of utility trench construction or maintenance. Finish elevation shall be the same as starting elevation; and

d. Routes for new utility trenches shall be selected to minimize hydraulic impacts on protected wetlands, and to minimize vegetation removal.

2. Aboveground utilities, including electricity, cable television and telephone service, may be routed through wetland areas on poles subject to the following standards:

a. Routes for new utility corridors shall be selected to minimize adverse impacts on the wetland, and to minimize vegetation removal; and

b. Vegetation management for utility corridors in protected wetlands and in wetland buffer areas shall be conducted according to the best management practices to assure maintenance of water quality, and subject to the vegetation management standards herein.

3. Utility maintenance roads in protected wetlands and in wetland buffer areas must meet applicable standards for roads in wetlands.

4. Common trenches, to the extent allowed by the building code, are encouraged as a way to minimize ground disturbance when installing utilities.

G. Footpaths and Bicycle Paths. Development of new footpaths, and maintenance of existing footpaths may be permitted in protected wetlands and in wetland buffer areas subject to the use restrictions in the zone and the following standards. Development of new bicycle paths may be permitted in wetland buffer areas.

1. Footpaths across protected wetlands may only be developed or maintained without the use of fill material. Bridges shall be used to cross open water areas.

2. Footpaths in protected wetlands shall not restrict the movement of water.

3. Routes for new footpaths shall be chosen to avoid traversing protected wetlands. Footpaths around the perimeter of protected wetlands, and in wetland buffer areas, are preferred.

4. Routes for new bicycle paths shall not be located in protected wetlands but may be located in wetland buffer areas.

H. Wetland Enhancement. Efforts to enhance wetland values include removal of nonnative vegetation from a wetland, planting native wetland plant species, excavation to deepen wetland areas, placement of bird nesting or roosting structures, fish habitat enhancements, hydraulic changes designed to improve wetland hydrology, removal of fill material, adding new culverts under existing fill, and similar acceptable activities. Wetland enhancement may be permitted in protected wetlands and in wetland buffer areas subject to the use restrictions in the applicable zone, and subject to these standards:

1. An enhancement plan must be prepared before an enhancement project can proceed. The plan must describe the proposal; identify the wetland value or values to be enhanced; identify a goal or goals for the project; and describe evaluation techniques to be used to measure progress toward project goals. The project must follow the approved plan.

2. All components of the enhancement plan (planning, design, construction, cleanup, maintenance, monitoring, and remedial activity) must comply with applicable standards in this section.

I. Excavation. Excavation in protected wetlands and in wetland buffer areas for any purpose must meet the following standards:

1. Excavation for purposes of gravel, aggregate, sand or mineral extraction is not permitted.

2. Excavation for utility trenches in protected wetlands is subject to the following standards:

a. Material removed from the trench is either returned to the trench (back-fill), or removed from the wetland area. Side-casting into a protected wetland for disposal of material is not permitted;

b. Topsoil shall be conserved during trench construction or maintenance, and replaced on the top of the trench; and

c. The ground elevation shall not be altered as a result of utility trench construction or maintenance. Finish elevation shall be the same as starting elevation.

3. Excavation for building footings in protected wetlands is subject to the following standards:

a. Material removed for approved footings is either returned to the trench (back-fill), or removed from the protected wetland or wetland buffer area. Side-casting for disposal of material is not permitted;

b. Disturbance of wetland vegetation and topsoil during footing construction shall be minimized; and

c. The ground elevation around a footing shall not be altered as a result of excavation for the footing, unless required to meet building code requirements for positive drainage. Finish elevation shall be generally the same as starting elevation.

4. Excavation for wetland enhancement is subject to the following standards:

a. No more material than necessary and specified in the enhancement plan shall be excavated; and

b. Side-casting for disposal of excavated material is not permitted; however, excavated material may be placed in a protected wetland or wetland buffer area for enhancement purposes as specified in the enhancement plan.

J. Stormwater Management. Management of stormwater flowing into protected wetlands or wetland buffer areas is subject to the following standards:

1. A stormwater management plan shall be required of the applicant and reviewed and approved by the public works director for the following types of developments where stormwater will move from the site into protected wetlands:

a. New building covering more than two hundred square feet; or

b. New addition covering more than two hundred square feet; or

c. New road or driveway; or

d. Road or driveway expansion; or

e. New parking lot; or

f. Parking lot expansion.

2. A stormwater management plan must include all information necessary to demonstrate to the public works director that the proposed stormwater management system will be consistent with the city's design standards.

3. Stormwater runoff should be directed toward the same drainage system that would have handled the runoff under natural conditions.

4. Uses, such as large parking lots, that could potentially contaminate runoff must include measures to treat runoff before discharging it into a protected wetland or wetland buffer area.

5. Where the public works director determines that wastewater volumes are or will be significant, wastewater management systems must disperse wastewater rather than discharging at a single point.

K. Mitigation. All projects involving removal or fill in a protected wetland must meet the following standards. These standards are intended to help meet the city's goal of no net loss of wetland functions or values.

1. Fill in protected wetlands or wetland buffer areas may be approved only after the following list of alternative and mitigating actions, listed from highest to lowest priority, have been considered:

a. Avoiding the impact altogether by not taking a certain action or parts of an action;

b. Minimizing impacts by limiting the degree or magnitude of action and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment (this would include removing wetland fills, rehabilitation of a resource use and/or extraction site when its economic life is terminated, etc.);

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

e. Creation, restoration or enhancement of a wetland area to maintain the functional characteristics and processes of the wetland system, such as its natural biological productivity, habitats, aesthetic qualities, species diversity, open space, unique features and water quality.

2. Any combination of the actions in subsection (K)(1) may be required to implement mitigation requirements. The compensatory mitigation actions listed in subsection (K)(1)(e) shall only be considered when unavoidable impacts remain after measures in subsections (K)(1)(a) through (d) have been considered.

3. The US Army Corps of Engineers or the Division of State Lands often require compensatory mitigation (subsection (K)(1)(e), of this section) as part of their approval of a fill permit. The city may require compensatory mitigation before approving a fill in a protected wetland when the US Army Corps of Engineers and the Division of State Lands do not require compensatory mitigation. Additional compensatory mitigation may be required by the city in those instances where it is also required as a condition of a state or federal fill permit.

L. Vegetation Management. Vegetation in protected wetlands and in wetland buffer areas may be managed (including planting, mowing, pruning and removal) subject to the following standards:

1. Tree removal in protected wetlands and in wetland buffer areas shall be consistent with the criteria and standards in Chapter 17.70, tree removal.

2. Removal of vegetation, except trees covered by Chapter 17.70, in protected wetlands and in wetland buffer areas is permitted only if:

a. Necessary for placement of a structure for which a building permit has been issued (or for which a building permit is not needed); or

b. Necessary for maintenance of an existing structure, road or pathway; or

c. Necessary for correction or prevention of a hazardous situation; or

d. Necessary for completion of a land survey; or

e. Part of an approved restoration, enhancement or compensatory mitigation plan.

Vegetation removal permitted under subsections L2a through e in a protected wetland shall be the minimum necessary and in no case shall it substantially impair wetland functions and values. Vegetation removal permitted under subsections L2a through e in a wetland buffer area shall be the minimum necessary.

3. Pruning or mowing of vegetation in protected wetlands and in wetland buffer areas is permitted only if:

a. Necessary for placement of a structure for which a building permit has been issued (or for which a building permit is not needed); or

b. Necessary for maintenance of an existing structure, road or pathway; or

c. Necessary for correction or prevention of a hazardous situation; or

d. Necessary for completion of a land survey; or

e. Part of an approved restoration, enhancement or compensatory mitigation plan; or

f. Part of a landscape plan approved by the city in conjunction with a building permit that minimizes adverse impacts on protected wetlands.

Pruning or mowing permitted under subsections L3a through f in a protected wetland shall be the minimum necessary and in no case shall it substantially impair wetland functions and values. Pruning or mowing permitted under subsections L3a through f in a wetland buffer area shall be the minimum necessary.

4. Planting new vegetation in protected wetlands is permitted subject to the following standards:

a. The planting is part of an approved restoration, enhancement or mitigation plan; or

b. The planting is part of a landscape plan involving native wetland plant species, and the plan is approved by the city in conjunction with approval of a building permit; or

c. The planting is intended to replace dead or damaged plants that were either part of a maintained landscape or part of the existing wetland plant community.

5. Planting new vegetation in wetland buffer areas is permitted as part of a managed garden or landscape.

6. Vegetation management practices will be employed in protected wetlands and in wetland buffer areas that minimize short-term and long-term adverse impacts on wetlands. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with

chemicals, unnecessary or excessive vegetation removal, or substantial alteration of native wetland plant communities. The following are not permitted as part of a vegetation management plan for protected wetlands or wetland buffer areas: alteration of wetland hydrology, use of herbicides, or application of soil amendments or fertilizer.

M. Land Divisions. Subdivisions, replats, partitions, and property line adjustments in protected wetlands, wetland buffer areas, or a wetland lot-of-record are subject to the following standards:

1. Preliminary plat maps for proposed subdivisions, replats and partitions involving protected wetlands or wetland buffer areas must show the wetland-upland boundary, as determined by a wetland delineation prepared by a qualified individual.

2. Subdivisions, replats, partitions and property line adjustments for the purpose of creating building sites are permitted subject to the following standards:

a. Each lot created must have at least one thousand square feet of upland available for building coverage, required off-street parking and required access.

b. The building site described in subsection M2a shall not include protected wetlands or wetland buffer areas.

c. Protected wetlands and wetland buffer areas may be counted towards meeting the base zone's minimum lot size for each lot, and may be included in front, side and rear yard setbacks as appropriate.

d. Utility lines, including but not limited to, water lines, sewer lines, and storm water lines shall not be located in protected wetlands or wetland buffer areas, unless there is no alternative to serve lots meeting the standard of subsection M2a.

e. Streets shall not be located in protected wetland or wetland buffer areas.

3. In planned unit developments or cluster subdivisions, all protected wetland or wetland buffer areas must be in open space tracts held in common ownership.

4. For lots or parcels created subject to these provisions, the existence of protected wetland or wetland buffer areas shall not form the basis for a future setback reduction or variance request. (Ord. 94-29 § 2)

Chapter 17.104 IMPACT ASSESSMENT PROCEDURE

17.104.010 Purpose.

The purpose of this chapter is to provide an assessment process for development alterations which could potentially alter the estuarine ecosystem. A clear presentation of the impacts of the proposed alteration shall precede the following activities: dredging, filling, in-water structures such as structural shoreline stabilization, water intakes or outfalls. The impact assessment, which need not be lengthy or complex, should enable reviewers to gain a clear understanding of the impacts to be expected. Specific information to be provided in the impact assessment is found in Section 17.102.040. Methods which are to be employed to avoid or minimize impacts shall be set forth. (Ord. 95-21 § 2; Ord. 86-10 § 6; Ord. 79-4 § 1 (4.132))

17.104.020 Impact assessment—Requirements.

A. An impact assessment in accordance with the provisions of this chapter shall be required for the following uses and activities when proposed for estuarine aquatic areas:

1. Filling or dredging (either dredging in excess of 50 cubic yards within a 12-month period, or dredging of less than 50 cubic yards, which requires a Section 404 permit from the U.S. Army Corps of Engineers);

2. Active restoration;

3. In-water structures such as support structures;

4. Rip-rap or other shoreline stabilization;

5. Water intake or outfall;

(Monitoring of effluent discharge and application of pesticides and herbicides are the responsibility of the Department of Environmental Quality and the Oregon Department of Agriculture.)

B. Further, an impact assessment shall be required when a use or activity requires a determination of consistency with resource capability of the estuary zone. Note that federal environmental impact statements or environmental assessments may substitute for this requirement if available at the time of permit review. (Ord. 95-21 § 2; Ord. 86-10 § 6; Ord. 79-4 § 1 (4.132) (1))

17.104.030 Use of impact assessment.

A. Information contained in impact assessments shall be used in the evaluation of a use or activity during a conditional use (Chapter 17.86) permit review procedure. The impact assessment shall be used to:

1. Identify potential development alterations of significant estuarine fish and wildlife habitats and disturbance of essential properties of the estuarine resource;

2. Determine whether potential impacts can be avoided and minimized; and

3. To provide a factual base of information that will ensure that applicable standards in Section 17.86.120 are met.

B. Where a use requires a resource capability determination, information in the impact assessment will be used to determine consistency of proposed uses and activities with the resource capability analysis and shall be based on the requirements in Section 17.102.040. (Ord. 95-21 § 2; Ord. 86-10 § 6; Ord. 79-4 § 1 (4.132) (2))

17.104.040 Impact assessment—Information.

A. Impact assessments shall contain the following information:

1. The type and extent of alterations expected;

2. The type of resource(s) affected;

3. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation, and other existing and potential uses of the estuary; and

4. The methods which could be employed to avoid or minimize adverse impacts.

B. It is the responsibility of the applicant to provide this information. (Ord. 95-21 § 2; Ord. 86-10 § 6; Ord. 79-4 § 1 (4.132) (3))

17.104.050 Impact assessment—Findings.

Resulting from the analysis of the information presented in the impact assessment, one of the following findings shall be concluded:

A. The proposed uses and activities are in conformance with all comprehensive plan policies and zoning ordinance standards and do not represent a potential degradation or reduction of

significant fish and wildlife habitats and essential properties of the estuarine resource. Where an impact assessment is required for a resource capability determination, the proposed uses are consistent with the resource capability, and meet the purpose of the management zone or area.

B. The proposed uses and activities are in conformance with all comprehensive plan policies and zoning ordinance standards but represent a potential degradation or reduction of significant fish and wildlife habitats and essential properties of the estuarine resource. The impact assessment identifies reasonable alternatives to proposed actions that will eliminate or minimize to an acceptable level expected adverse environmental impacts. Where an impact assessment is required for a resource capability determination, the adverse environmental impacts have been minimized to be consistent with the resource capability and purpose of the management area or zone. The proposed uses and activities may be accommodated and found to be consistent with resource capabilities and meet the purpose of the management area or zone.

C. The proposed uses and activities are not in conformance with all comprehensive plan policies and zoning ordinance standards. The impact assessment and analysis indicate that unacceptable loss will result from the proposed development alteration. The proposed uses and activities represent irreversible changes and actions and unacceptable degradation or reduction of significant estuarine fish and wildlife habitats and essential properties of the estuarine resources will result; or, that the adverse consequences of the proposed uses and activities, while unpredictable and not precisely known, would result in irreversible trends or changes in estuarine resource properties and functions.

D. Available information is insufficient for predicting and evaluating potential impacts. More information is needed before the project can be approved. (Ord. 95-21 § 2; Ord. 86-10 § 6; Ord. 79-4 § 1 (4.132) (4))

Chapter 17.106 RESOURCE CAPABILITY DETERMINATION

17.106.010 Purpose of provisions.

Certain uses and activities in the estuary zone are allowed only if determined to meet the resource capability and purpose of the zone in which the use or activity occurs. The purpose of this chapter is to establish a procedure for making a resource capability determination. (Ord. 95-21 § 3; Ord. 86-10 § 7; Ord. 79-4 § 1 (4.133))

17.106.020 Definition of resource capability.

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 effect and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values. (Ord. 95-21 § 3; Ord. 86-10 § 7; Ord. 79-4 § 1 (4.133) (1))

17.106.030 Purpose of the estuary zone.

A. The purpose of the estuary zone is to:

1. Assure the protection of fish and wildlife habitats;

2. Maintain the biological productivity within the estuary; and

3. Provide for low-intensity uses that do not require major alterations of the estuary. (Ord. 95-21 § 3; Ord. 86-10 § 7; Ord. 79-4 § 1 (4.133) (2))

17.106.040 Resource capability procedure.

In order to determine whether a use or activity is consistent with the resource capability and purpose of the zone for which the use or activity is proposed, the following procedure is required:

A. Identification of the area in which the activity is proposed, and the resources of the area;

B. Identification of adverse impacts of the proposed use or activity on the resource identified in subsection A of this section. This information is included in Chapter 17.102, Impact Assessment Procedure;

C. Determination of whether the resources can continue to achieve the purpose of the zone in which the use or activity is proposed. (Ord. 95-21 § 3; Ord. 8610 § 7; Ord. 79-4 § 1 (4.133) (3))

17.106.050 Identification of resources and impacts.

A. The applicant for a proposed use or activity in which a resource capability determination must be made shall submit the following:

1. Information on resources present in the area in which the use or activity is proposed;

2. Impact assessment as specified in Chapter 17.102, Impact Assessment Procedure. (Federal environmental impact statements or environmental assessments may be substituted if available at the time of the permit request.)

B. If, in the course of review, additional information is required to satisfy the provisions of this chapter, notification shall be made to the applicant outlining the additional information needed and the reason. Although the applicant shall be responsible for providing all necessary information, the city will assist the applicant in identifying inventory sources and information.

C. Identification of resources shall include both environmental (e.g., aquatic life and habitat present, benthic populations, migration routes), and social and economic factors. (Ord. 95-21 § 3; Ord. 86-10 § 7; Ord. 79-4 § 1 (4.133) (4))

17.106.060 Resource capability administrative provisions.

A. A resource capability determination for a use or activity identified in this title as a conditional use shall be made in accordance with the conditional use procedure set forth in Chapter 17.86.

B. Public notice of development proposals which require determination of consistency with resource capabilities shall be sent to state and federal resource agencies with mandates and authorities for planning, permit issuance and resource decision-making. These are: Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, and the U.S. Army Corps of Engineers. (Ord. 95-21 § 3; Ord. 86-10 § 7; Ord. 79-4 § 1 (4.133) (5))

17.106.070 Appeal procedure.

A resource capability determination made as part of a conditional use permit decision may be appealed as provided in Chapter 17.18. (Ord. 95-21 § 3; Ord. 86-10 § 7; Ord. 79-4 § 1 (4.133) (6))

Chapter 17.108 DEVELOPMENT REQUIREMENTS FOR POTENTIAL GEOLOGIC HAZARD AREAS

17.108.010 Purpose.

The purpose of this chapter is to minimize building hazards and threats to life and property that may be created by landslides, coastal erosion, weak foundation soils and other hazards as identified and mapped by the city. This purpose is achieved by basing city decisions on accurate geologic and soils information prepared by a registered geologist and requiring the application of engineering principles in any construction that occurs where such studies indicate potential hazards. (Ord. 79-4 § 1 (4.110) (1))

17.108.020 Applicability.

The following are potential geologic hazard areas to which the standards of this section apply:

A. In any area with an average slope of 20 percent or greater;

B. In areas of potential landslide hazard, as identified in the city master hazards map and comprehensive plan;

C. In areas abutting the ocean shore, or velocity zone flood hazard, as identified on the city's FIRM maps;

D. In areas identified by the soil survey of Clatsop County, Oregon as containing weak foundation soils; or

E. In open sand areas regardless of the type of dune or its present stability, and conditionally stable dunes not located in a velocity flood hazard zone, as identified on the city's FIRM maps, which in the view of the building official have the potential for wind erosion or other damage. (Ord. 92-11 § 60; Ord. 79-4 § 1 (4.110) (2))

17.108.030 Procedure.

The requirements of this section shall be met prior to the issuance of a building permit. The city manager may require that the requirements of this section be met in conjunction with a request for the approval of a setback reduction, variance, conditional use, design review request, preliminary subdivision proposal, major partition request, minor partition request, and preliminary planned development request. (Ord. 92-11 § 61; Ord. 79-4 § 1 (4.110) (3))

17.108.040 Reports and plans required.

A. Geologic Site Investigation Report.

1. A geologic site investigation report shall be prepared by a registered geologist or engineering geologist. The report is to be prepared in conformance with the city's site investigation report checklist.

2. Where recommended by the geologic site investigation report, or required by the city manager, an engineering report prepared by a registered civil engineer shall be prepared. The report shall discuss the engineering feasibility of the proposed development and include findings and conclusions for: the design and location of structures; the design and location of roads; the design and location of utilities; land grading practices, including excavation and filling; stormwater management; and vegetation removal and replanting.

3. The burden of proof shall be upon the applicant to show construction feasibility. A proposed use will be permitted only where:

a. The geologic site investigation report indicates that there is not a hazard to the use proposed on the site or to properties in the vicinity; or

b. The geologic site investigation report and engineering report specifies engineering and construction methods which will eliminate the hazard or will minimize the hazard to an acceptable level.

4. The standards and recommendations contained in the geologic site investigation and engineering report, upon acceptance by the manager, shall become requirements of any building permit that is issued.

5. The manager may have the geologic site investigation report, or the engineering report reviewed by an independent expert of his or her choosing. Such a review may address either the adequacy or completeness of the site investigation, or the construction methods recommended in the engineering report. The applicant shall pay for the cost of the review.

6. A geologic site investigation report shall remain valid for a period of not more than 5 years from the date of its preparation. The continued reliance on a geologic site investigation report that is more than 5 years old requires the following additional new information:

a. An on-site re-inspection of the site by a qualified individual to determine if there has been any change in circumstances.

b. If no change in circumstances is found, a short report noting or including:

I. A description of site conditions and any changes between the date of the original geologic site investigation report and the date of the re-inspection;

II. Any additional maps, aerial photographs or other documents consulted; and

III. Conclusions regarding the accuracy of the original geologic site investigation report.

c. If a change in circumstances is noted, the information in subsection (b) of this section shall be provided along with:

I. Additional field data needed to verify and document any change in the status of the area;

II. Revised mapping;

III. Data, documentation, and other information as needed to define the existing geologic condition of the property; and

IV. Revised recommendations and conclusions based on the changed circumstances applicable to the property. (Ord. 08-1 § 43; Ord. 98-5 §§ 2, 3; Ord. 92-11 § 62; Ord. 79-4 § 1 (4.110) (4))

17.108.050 Disclaimer of liability.

The degree of protection from problems caused by geologic hazards which is required by this chapter is considered reasonable for regulatory purposes. This chapter does not imply that uses permitted will be free from geologic hazards. This chapter shall not create a liability on the part of the city or by any officers, employee or official thereof for any damages due to geologic hazards that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 79-4 § 1 (4.110) (7))

17.108.060 Master hazards map.

A map shall be maintained in the city hall delineating areas of natural hazards, as required by the comprehensive plan. The map shall be updated periodically in order to contain up-to-date information on mass movement, slumping, weak foundation soils or other hazards. Flood hazards shall be indicated by the city's flood insurance rate map. (Ord. 79-4 § 1 (4.110) (8))

Chapter 17.110 DUNE CONSTRUCTION STANDARDS

17.110.010 Purpose.

It is the intent of the dune construction standards to regulate activities associated with the construction of dwellings or commercial buildings, where permitted, in dune areas in order to minimize damage to the dune forms and to adjacent property. The following sections shall apply to developments in dune areas. (Ord. 94-08 § 11; Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120))

17.110.020 Wind erosion prevention plan required.

Before a building permit is issued for the construction of a dwelling or commercial building which involves the removal of vegetation in areas of sand soils, a satisfactory wind erosion prevention plan shall be submitted to the city manager. The plan shall provide for temporary and permanent sand stabilization. The plan shall return the area to its original level of stability or further increase the area's stability. This plan can be a report indicating what types of vegetation will be planted, approximately when planting will occur, how vegetation will be preserved, and other relevant techniques being used to prevent wind erosion. (Ord. 94-08 § 12; Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120) (1))

17.110.030 Vegetation removal—Restricted.

Removal of vegetation in areas of sandy soils shall be kept to the minimum required for building placement or other valid purposes. Removal of vegetation shall not occur more than thirty days prior to grading or construction. Permanent revegetation shall be started on the site as soon as practical. (Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120) (2))

17.110.040 Sand removal—Restricted.

Sand removal shall be limited to that necessary for construction of permitted structures on the site or for eliminating hazards identified in the wind erosion prevention plan. Adequate consideration shall be given to removing sand from the least sensitive locations. Disturbed areas shall be properly revegetated unless building is done thereon. (Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120) (3))

17.110.050 Topographic modification—Restricted.

Developments shall result in the least topographic modification of the site that is practical. (Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120) (4))

17.110.060 Geological site investigation—Required.

Site specific investigations by a registered geologist shall be required prior to the issuance of a building permit in open sand areas, property with slopes of twenty percent or more or other sites which the manager determines may have significant potential for wind erosion or other hazards. The report shall include the history of erosion or other hazards in the vicinity of the site, a map of areas in the vicinity of the site with recent evidence of erosion, a presentation of potential adverse effects of the development, recommendations on where structures should be located, suggestions on the type of protection required for the proposed use and nearby property, and other material required by the manager. (Ord. 94-08 § 13; Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120) (5))

17.110.070 Performance bond.

The city manager may require that the developer post a performance bond to insure that safeguards recommended by either the wind erosion plan or the site investigation are provided or implemented. (Ord. 86-10 § 5; Ord. 79-4 § 1 (4.120) (7))

Chapter 17.112 GRADING, EROSION AND SEDIMENTATION CONTROL

17.112.010 Purpose.

The purpose of this chapter is to: (1) minimize hazards associated with grading; (2) minimize the erosion of land during clearing, excavation, grading, construction, and post-construction activities; (3) prevent the transport of sediment into water courses, wetlands, riparian areas, thus protecting water quality and fish and wildlife habitat; and (4) prevent the transport of sediment onto adjacent property. (Ord. 98-5 § 1)

17.112.020 Grading and erosion control permit.

A. Development Permit Required.

1. Persons proposing to clear, grade, excavate, or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.120.030. A development permit is required where:

a. The proposed clearing, grading, filling, or excavation is located within 100 feet of a stream, watercourse or wetland; or

b. The proposed clearing, grading, filling, or excavation is located more than 100 feet from a stream or watercourse or wetland and the affected area exceeds 250 square feet; or

c. The proposed volume of excavation, fill or any combination of excavation and fill exceeds 10 cubic yards in a calendar year.

2. A development permit for regulated activities in conjunction with a structure requiring a building permit shall be reviewed pursuant to Section 17.12.010 (A), (B) and (C)(1).

3. A development permit for regulated activities in conjunction with a subdivision or partition shall be reviewed in conjunction with construction drawings as required by Section 17.124.020.

4. A development permit for regulated activities not in conjunction with building permit, subdivision, or partition shall be reviewed pursuant to Section 17.12.010 (A), (B) and (C)(2). However, notice to adjacent property owners, as specified by Section 17.12.010 (C)(2)(d), is not required.

B. Exceptions. The following are exempt from the requirements of Section 17.120.020 (A):

1. Residential landscaping and gardening activities up to 2,000 square feet in area;

2. Forest management undertaken pursuant to Section 17.86.150.

3. Construction which disturbs 5 acres or more. Such activities are regulated by the Oregon Department of Environmental Quality through its storm water program.

C. Information Required for a Development Permit.

1. An application for a development permit for regulated activities subject to the requirements of this chapter shall include the following:

a. A site plan, drawn to an appropriate scale with sufficient dimensions, showing the property line locations, roads, areas where clearing, grading, excavation or filling is to occur, the area where existing vegetative cover will be retained, the location of any streams or wetland areas on or immediately adjacent to the property, the general direction of slopes, the location of the proposed development, and the location of soil stock piles, if any;

b. The type and location of proposed erosion and sedimentation control measures.

2. The city may require a grading plan prepared by a registered civil engineer where the disturbed area has an average slope of 20 percent or greater, the disturbed area is located in a geologic hazard area, or is part of a subdivision or partition. Such a grading plan shall include the following additional information:

a. Existing and proposed contours of the property, at 2-foot contour intervals;

b. Location of existing structures and buildings, including those within 25 feet of the development site on adjacent property;

c. Design details for proposed retaining walls;

d. The direction of drainage flow and detailed plans and locations of all surface and subsurface drainage devices to be constructed.

3. The city may require that the sedimentation and erosion control plan be prepared by a registered civil engineer where the disturbed area is greater than 1 acre in size, or the disturbed area has an average slope of 20 percent or greater. (Ord. 98-5 § 1)

17.112.030 Grading standards.

A. The review and approval of development permits involving grading shall be based on the conformance of the proposed development plans with the following standards. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards.

1. Cuts.

a. Designs shall minimize the need for cuts;

b. The slope of cut surfaces shall not be steeper than is safe for the intended use and shall not be steeper than 2 horizontal to 1vertical unless an engineering report finds that a cut at a steeper slope will be stable and not create a hazard to public or private property;

c. Cuts shall not remove the toe of any slope where a potential land slide exists;

d. Cuts shall be set back from property lines so as not to endanger or disturb adjoining property;

e. Retaining walls shall be constructed in accordance with Section 2308(b) of the Oregon State Structural Specialty Code.

2. Fills.

a. Designs shall minimize the need for fills;

b. The slope of fill surfaces shall not be steeper than is safe for the intended use and shall not be steeper than 2 horizontal to 1 vertical unless an engineering report finds that a steeper slope will be stable and not create a hazard to public or private property. Fill slopes shall not be constructed on natural slopes steeper than 2 horizontal to 1 vertical;

c. Fills shall be set back from property lines so as not to endanger or disturb adjoining property;

d. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, and scarifying to provide a bond with the new fill;

e. Any structural fill shall be designed by a registered engineer, in accordance with standard engineering practices.

3. Drainage.

a. Proposed grading shall not alter drainage patterns so that additional storm water is directed onto adjoining property;

b. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability. (Ord. 98-5 § 1)

17.112.040 Erosion and sedimentation control standards.

A. The review and approval of development permits for regulated activities subject to this chapter shall be based on the conformance of the development plans with the standards of this section. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards. The city may require modifications to the erosion and sedimentation control plan at any time if the plan is ineffective in preventing the discharge of significant amounts of sediment onto surface waters, wetlands, or adjacent property.

B. The design standards and specifications contained in "Soil Erosion Guidance" prepared by the Columbia River Estuary Study Taskforce (CREST), are incorporated into this chapter and are made a part hereof by reference for the purpose of delineating procedures and methods of operation for erosion and sedimentation control measures.

C. Standards.

1. Natural vegetation should be retained and protected wherever possible.

2. Stream and wetland areas shall only be disturbed in conformance with the requirements of Chapter 17.102 Wetland Overlay Zone and Chapter 17.114 Stream Corridor Protection.

3. In dune areas, erosion and sedimentation control measures shall also meet the requirements of Section 17.108.020, wind erosion prevention plan.

4. Sedimentation barriers, such as filter fences and straw bales, shall be placed to control sedimentation from entering streams, wetlands, or adjoining property. The sedimentation barriers shall be installed prior to site clearance or grading activities.

5. Critical areas, as determined by the building official, cleared of vegetation may be required to be temporarily stabilized with mulch, sod, mat or blanket in combination with seeding, or equivalent nonvegetative materials such as mat or blanket if in the opinion of the building official such an area represents an erosion hazard. Prior to the completion of construction, such slopes shall be permanently stabilized by seeding.

6. Storm water inlets and culverts shall be protected by sediment traps or filter barriers.

7. Soil storage piles or fill shall be located so as to minimize the potential for sedimentation of streams, wetlands or adjacent property. Where, in the opinion of the city manager, a soil storage area or fill has the potential for causing sedimentation of streams, wetlands or adjoining property, the manager may require temporary stabilization measures.

8. Temporary sedimentation control, not in conjunction with a structure, may be required.

9. Erosion and sedimentation control measures shall be maintained during the period of land disturbance and site development in a manner that ensures adequate performance.

10. The city manager may require a graveled entrance road, or equivalent, of sufficient length, depth and width to prevent sedimentation from being tracked onto streets.

11. Trapped sediment and other disturbed soils resulting from sediment control measures shall be removed or permanently stabilized to prevent further erosion and sedimentation.

12. Measurable amounts of sediment that leave the site shall be cleaned up and placed back on the site or properly disposed of.

13. All temporary erosion and sedimentation control measures shall remain in place until the disturbed area is stabilized with permanent vegetation.

14. Under no conditions shall sediment from the construction site be washed into storm sewers, drainage ways or streams.

15. A ground cover will be established on exposed soils as soon as possible after finish grading or construction is complete.

16. No more than 10 cubic yards of fill shall be placed on an undeveloped site within a calendar year.

17. The city manager may make periodic inspections to ascertain that erosion and sediment control measures as proposed have been implemented and are being effectively maintained. (Ord. 98-5 § 1)

Chapter 17.114 TREE REMOVAL AND PROTECTION

17.114.010 Purpose.

A. The purpose of this chapter is to establish protective regulations for trees within the city in order to better control problems of soil erosion, landslide, air pollution, noise, wind, and destruction of scenic values and wildlife habitat, and to protect trees as a natural resource which establishes the wooded character of the city.

B. The intent is not to prohibit the removal of trees completely, or to require extraordinary measures to build structures; rather the intent is to stop the wanton and oftentimes thoughtless destruction of that vegetation which has a beneficial effect on the value of property, and on the city in general. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 96-18 § 1; Ord. 79-4 § 1 (4.600) (1))

17.114.020 Tree removal without a permit prohibited.

No person shall remove a tree (tree removal) without first obtaining a permit from the city pursuant to this chapter, unless the tree removal is exempted by provisions of this chapter. Application for a tree removal permit shall be made on forms prescribed by the city. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 § 2; Ord. 96-18 § 1)

17.114.030 Permit administration.

A. A property owner or designated representative may initiate a request for approval for removal of a tree on the owner's property by filing an application with the city using forms prescribed by the city. The property owner's signature is required. A tree removal request signed by the property owner shall clearly and explicitly grant permission to city staff or to the city's arborist to enter the subject property for purposes of examining the tree(s) proposed for removal.

B. Anyone may initiate a request for approval of tree removal in a city right-of-way or on city-owned property by filing an application with the city using forms prescribed by the city.

C. An applicant for a tree removal permit, or their arborist, shall mark each tree proposed for removal with plastic flagging tape or other suitable means approved by the city.

D. A copy of the approved tree removal permit shall be kept on-site when the removal is carried out. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 § 3)

17.114.040 Permit issuance—Criteria.

The city shall issue a tree removal permit if the applicant demonstrates that one of the following criteria is met:

A. Removal of a tree which poses a safety hazard. The applicant must demonstrate that:
   1. The condition or location of the tree presents either a foreseeable danger to public safety, or a foreseeable danger of property damage to an existing structure; and

   2. Such hazard or danger cannot reasonably be alleviated by pruning or treatment of the tree.

B. Removal of a tree damaged by storm, fire, or other injury and which cannot be saved by pruning.

C. Removal of a dead tree.

D. Removal of a tree(s) in order to construct a structure or development approved or allowed pursuant to the Cannon Beach Municipal Code, including required vehicular and utility access, subject to the requirements in Section 17.112.050 (B) and (Q).

E. Removal of a tree where required to provide solar access to a solar energy system where pruning will not provide adequate solar access to permit effective operations of the solar energy system.

1. The city manager may require documentation that a device qualifies for an Oregon Department of Energy solar tax credit, or other incentive for the installation of solar devices offered by a utility.

2. No tree measuring more than 24 inches in diameter shall be removed for the purpose of obtaining solar access.

F. Removal of a tree for the health and vigor of the surrounding trees.

G. Removal of a tree for landscape purposes subject to the following conditions:

1. The tree(s) to be removed under this criterion cannot exceed 10 inches in diameter;

2. A landscape plan for the area affected by the tree removal is approved by the city;

3. The landscape plan incorporates a replacement tree(s) for trees to be removed. The replacement tree shall be at least 6 feet in height or have a 2-inch caliper; and

4. The city manager shall review the property one year after the approval of the tree removal permit. The purpose of the review is to ensure that the approved landscape plan has been implemented. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 §§ 4, 5; Ord. 08-8 § 1; Ord. 98-22 § 1; Ord. 96-18 § 1; Ord. 90-10 § 1 (Appx. A § 41); Ord. 79-4 § 1 (4.600) (2))

17.114.050 Additional requirements.

A. Where an applicant identifies the necessity to remove a tree pursuant to Section 17.114.040 (A) or (B) the application shall include a complete ISA Tree Hazard Evaluation Form prepared by a certified arborist with the tree removal application. An ISA Tree Hazard Evaluation Form prepared by a certified arborist is not required where a tree removal permit proposes the removal of a dead tree pursuant to subsection C of this section, or where a tree removal permit proposes the removal of a tree pursuant to subsection F. Where an applicant identifies the necessity to remove a tree pursuant to Section 17.114.040 (F), a certified arborist shall provide a report certifying the need to remove the tree for the health and vigor of surrounding trees.

B. For actions which require the issuance of a building permit, tree removal shall occur only after a building permit has been issued for the structure requiring the removal of the tree(s).

C. An application for the removal of a dead tree does not require an ISA Tree Hazard Evaluation Form prepared by a certified arborist.

D. The retention of trees shall be considered in the design of partitions, subdivisions, or planned developments; placement of roads and utilities shall preserve trees wherever possible. The need to remove trees shall be considered in the review process for partitions, subdivisions, or planned developments.

E. The preservation of trees shall provide a basis for consideration of a setback reduction or variance.

F. If the condition of a tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property, a tree removal permit is not required prior to tree removal. However, within seven days after the tree removal, the tree owner shall make application for an after-the-fact permit. Where a tree presents an immediate danger of collapse, a complete ISA Tree Hazard Evaluation Form prepared by a certified arborist is not required. Where a safety hazard exists, as defined by this subsection, the city may require the tree's removal. If the tree has not been removed after 48 hours, the city may remove the tree and charge the costs to the owner.

G. The city manager may require the replanting of trees to replace those being removed. Tree replanting shall be in conformance with the city's tree replacement policy, Section 17.114.060.

H. Decisions on the issuance of a tree removal permit may be appealed to the planning commission in accordance with Chapter 17.18.

I. For tree removal requests of trees located in a street right-of-way, or on property owned by the city, property owners within 100 feet of the tree(s) requested for removal shall be notified of the proposed action. The notification shall also be posted on the city's website, and on the bulletin board at City Hall, and at the Post Office. In making its decision on such a tree removal request, the city shall consider comments received within 10 days of the date of the mailing of the property owner notification. To be considered, comments must address the tree removal criteria of Section 17.114.040. Any person who has commented on the tree removal request shall be notified of the city's decision and may appeal that decision in accordance with subsection H.

J. Tree pruning does not require a permit. However, the following trees shall be pruned in conformance with International Society of Arboriculture (ISA) ANSI A300 Pruning Standards (2008):

1. Trees more than 30 feet in height;

2. Trees more than 30 inches in diameter;

3. South of Ecola Creek, trees located west of Hemlock Street; and

4. North of Ecola Creek, trees located west of Laurel Street.

K. Tree topping is prohibited except for where: (1) trees have been severely damaged in a storm; and (2) required for utility line maintenance when other pruning practices are impractical.

L. A monthly report on tree removal permit actions shall be made to the planning commission.

M. If a tree is removed without a tree removal permit, a violation may be determined by measuring the stump at the surface of the cut. A stump that is 22 inches or more in circumference or 7 inches or more in diameter shall be considered prima facie evidence of a violation of this chapter. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation is committed.

N. Penalties.

1. Notwithstanding any other provisions of the code, any party found to be in violation of this chapter shall be subject to a civil penalty of $500 and the payment of an additional civil penalty representing the value of any unlawfully removed or damaged tree, as determined by an appraisal using the International Society of Arboriculture (ISA) Guide for Plant Appraisal, Ninth Edition, 2000. The unlawful removal of each individual tree shall be a separate offense.

2. A builder, developer, tree service, or any other person holding a city business license who is convicted of violating any provision of this chapter is also subject to a proceeding to consider revocation of their business license, pursuant to Section 5.04.170.

O. The city may seek independent expert opinion when reviewing an ISA Tree Hazard Evaluation, or when reviewing any request to remove a diseased, damaged, dying, or hazardous tree. An arborist retained or hired by the city under this section is expected to render independent expert opinion, consistent with the ISA Certified Arborist Code of Ethics.

P. A tree removal permit approved by the city is valid for 12 months from the date of issuance. The permit may be extended for an additional 12 months at the owner's request if there has been not material change in circumstances.

Q. An application for a tree removal permit under Section 17.114.040 (D), submitted

under the direction of a certified tree arborist for removal of a tree(s) to construct a structure or development, must include the following:

1. A site plan showing the location of the tree(s) proposed for removal, the location of the proposed structure or development, and the location of any other trees 6-inch DBH or larger on the subject property or off site (in the adjoining right-of-way or on adjacent property) whose root structure might be impacted by excavation associated with the proposed structure, or by soil compaction caused by vehicular traffic or storage of materials.

2. Measures to be taken to avoid damaging trees not proposed for removal, both on the subject property and off site (in the adjoining right-of-way or on adjacent property).

3. The area where a tree's root structure might be impacted by excavation, or where soil compaction caused by vehicular traffic or storage of materials might affect a tree's health, shall be known as a tree protection zone (TPZ).

4. Prior to construction the TPZ shall be delineated by hi-visibility fencing a minimum of three and one-half feet tall, which shall be retained in place until completion of construction. Vehicular traffic, excavation and storage of materials shall be prohibited within the TPZ. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 §§ 6—12; Ord. 08-8 § 2; Ord. 98-22 §§ 2, 3; Ord. 97-30 § 1; Ord. 96-18 § 1; Ord. 90-10 § 1 (Appx. A § 42); Ord. 89-3 § 1; Ord. 79-4 § 1 (4.600) (3))

17.114.060 Tree replacement policy.

A. The overall objective of the city's tree replacement policy is, where practical, to maintain a minimum density of trees on a given parcel of land.

B. The basic standard is that 4 trees should be maintained on a 5,000 square foot lot. For larger lots this standard will be applied on a proportional basis, e.g., a 7,500 square foot lot would require the maintenance of 6 trees. This standard is to be implemented as follows:

1. Tree removal in conjunction with construction:

a. If 4 or more trees existed on the lot prior to construction and approval is granted to remove trees, the replanting of up to 4 trees may be required.

b. If fewer than four trees existed on the lot prior to construction, the replanting of trees on a one-for-one basis may be required.

c. A minimum density of less than 4 trees may be permitted where it is found that the remaining trees provide sufficient cover, immature trees (those less than 6 inches in diameter) will mature to provide adequate cover, or there are no reasonable locations for new trees.

2. Tree removal not in conjunction with construction:

a. If after tree removal the site maintains the standard of at least 4 trees per 5,000 square feet, no replacement is required.

b. If after tree removal the site contains less than 4 trees per 5,000 square feet, the replanting of trees on a one-for-one basis may be required.

c. A minimum density of less than 4 trees per 5,000 square feet may be permitted where it is found that the remaining trees provide sufficient cover, immature trees (those less than 6 inches diameter) will mature to provide adequate cover, or there are no reasonable locations for new trees.

C. The objective of the tree replacement policy is to require the replanting of native trees. When a replacement tree is required, at least 1 tree from the native tree list will have to be replanted. The following trees are considered native:

1. Sitka spruce;

2. Western hemlock;

3. Douglas fir;

4. Western red cedar;

5. Red alder;

6. Mountain ash;

7. Big leaf maple;

8. Vine maple.

D. The replacement trees shall be planted so that they do not create future problems in terms of solar access, view protection, building maintenance, or the survivability of other trees. Trees should generally not be planted within 5 feet of the property line.

E. The replacement trees shall be at least 6 feet in height at the time of planting. (Ord. 19-3 § 1; Ord. 17-3 § 1)

Chapter 17.116 STREAM CORRIDOR PROTECTION

17.116.010 Purpose.

The purpose of this chapter is to establish regulations which will preserve, to the maximum extent possible, the city's streams in their natural state. (Ord. 94-30 § 2)

17.116.020 Applicability.

The regulations of this chapter shall apply to the following streams identified in the Cannon Beach wetland study: Sites 1, 2, 3, 4, 5, 6, 7, 12, 14, 15, 17, 18, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51 and 52. When a stream not inventoried in the Cannon Beach wetland study is identified, it shall become subject to the requirements of this chapter only after an inventory and analysis meeting the appropriate requirements of either Goal 5 or Goal 17 has been completed and adopted as an amendment to the comprehensive plan background report, and the adoption of an ordinance adding the stream to the list of streams subject to stream corridor protection regulations. (Ord. 97-23 § 1; Ord. 95-15 § 1; Ord. 94-30 § 2)

17.116.030 Stream buffers—Established.

A 10-foot buffer is established on both sides of the streams listed in Section 17.116.020, except that a 15-foot buffer on both sides of the stream is established for Site 17, which comprises portions of Logan Creek. The buffer shall be measured from the bank of the stream. (Ord. 94-30 § 2)

17.116.040 Uses and activities permitted.

The following uses and activities may be permitted in the stream buffers established by Section 17.116.030 subject to the issuance of a development permit in accordance with Section 17.12.010 and subject to the applicable standards of Section 17.116.070.

A. Transportation structures including bridges, bridge crossing support structures, and culverts;

B. Underground or aboveground utilities;

C. Vegetation management;

D. Bank stabilization;

E. Maintenance and improvement of the stream corridor for storm drainage purposes;

F. Stormwater discharge. (Ord. 21-05 § 3; Ord. 94-30 § 2)

17.116.050 Conditional uses and activities permitted.

The following uses and activities may be permitted in the stream buffers established by Section 17.116.030, subject to the issuance of a conditional use permit in accordance with a Type III procedure as provided in Article II, and subject to the applicable standards of Section 17.116.070.

Roads or driveways, including an expansion of an existing right-of-way. (Ord. 21-05 § 3)

17.116.060 Uses and activities prohibited.

The following uses and activities are specifically prohibited in the established stream buffers.

Excavation solely for the purpose of removal of gravel, aggregate, sand or other inorganic or organic materials. (Ord. 94-30 § 2)

17.116.070 Standards.

The following standards are applicable to the uses and activities listed in Section 17.116.040.

A. General Standards. Uses and activities in the stream buffer are subject to the following general standards. Uses and activities may also be subject to specific standards in subsequent subsections.

1. Uses and activities in the stream buffer may be approved only after the following list of alternative actions, listed from highest to lowest priority, have been considered:

a. Avoiding the impact altogether by not taking a certain action or parts of an action (this would include, for example, having the use or activity occur entirely outside the stream buffer); or

b. Minimizing impacts by limiting the degree or magnitude of an action and its implementation (this would include, for example, reducing the size of the structure or improvement so that the stream buffer is not impacted).

2. Valid permits from the US Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must be obtained before any of the following activities occur in stream buffers:

a. Placement of fill;

b. Construction of any pile-support structure;

c. Excavation.

3. An erosion control plan which identifies the specific measures to be implemented during and after construction to protect the stream and adjacent upland areas from erosion, siltation and the effects of deleterious construction materials.

B. Transportation structures, including roads, bridges, bridge crossing support structures and culverts, may be permitted subject to the following standards:

1. Roads shall be constructed outside of the stream corridor except for required stream crossings.

2. Streams shall be crossed only where there are no practicable alternatives.

3. In order of preference, the priorities for stream crossing structures are:

a. Bridges; and

b. Bottomless culverts or other similar structures that have a demonstrated ability to provide for fish and wildlife passage.

4. Proposals for stream crossings utilizing a bottomless culvert or other similar structure shall be reviewed by the Planning Commission, at a public hearing, pursuant to the requirements of Chapter 17.16. The Planning Commission shall approve such a stream crossing only where it finds that:

a. The site topography presents a material difficulty to bridge construction; or

b. Where it can be demonstrated that a bridge crossing would result in more damage to the stream and adjacent wetland and riparian area than a stream crossing utilizing a bottomless culvert or similar structure.

5. The stream crossing shall be designed so that the crossing does not diminish the flood-carrying capacity of the stream.

6. The stream crossing shall be no wider than necessary to serve its intended purpose.

7. Placement of the stream crossing structure shall minimize land clearing and site modification within the stream corridor. All debris, overburden and other construction materials shall be placed on nonwetland areas in a manner which prevents erosion into the stream.

8. Bridge crossing support structures shall not be located in the stream. Excavation for footings, piers and abutments shall be isolated from the wetted perimeter of the waterway by a dike, cofferdam or other structure.

9. Utility crossings shall be combined with stream crossings where feasible.

10. Where feasible, the number of stream crossings shall be minimized through the use of shared access for abutting lots.

11. Where adjacent upland consists of a wetland, applicable standards of Chapter 17.102 shall be complied with.

C. Utilities. Crossing, trenching or boring for the purpose of developing a utility corridor for electric power lines, telephone lines, cable television lines, water lines, wastewater collection lines, and natural gas lines may be permitted subject to the following standards:

1. Utility corridor routes shall be selected to minimize hydraulic impacts on the stream and to minimize vegetation removal.

2. Common trenches, to the extent allowed by the building code, are required in order to minimize disturbance of the stream corridor.

3. Boring under the waterway, directional drilling, or aerial crossings are preferable to trenching. If trenching is the only alternative, it shall be conducted in a dry or dewatered area with stream flow diverted around the construction area to prevent turbidity.

4. Boring or drilling pits shall be isolated from the flowing waterway.

5. Conduits and pipelines placed under waterways shall be well below the potential scour level of the stream bottom.

6. Materials from trenching, boring or drilling shall be deposited away from the streambank and either returned to the trench as back-fill within a reasonable period of time, or, if other material is to be used to back-fill in the trench, excess material shall be immediately removed from the stream buffer.

7. Topsoil and sod shall be conserved during construction and replaced.

8. For Logan Creek, construction shall be conducted during times approved by the Oregon Department of Fish and Wildlife.

9. Where feasible, construction should occur between June and October. Construction at other times of the year shall utilize more rigorous erosion control methods.

D. Vegetation Management. Vegetation in the stream buffer shall be managed (including planting, mowing, pruning and removal) subject to the following standards:

1. Tree removal meeting the criteria of subsections A and B of Section 17.114.040;

2. Removal of vegetation, except trees covered by Chapter 17.114, pruning of vegetation, or mowing of vegetation where:

a. Necessary for the placement of a use provided for in Section 17.116.040, or

b. Necessary for the maintenance of an existing structure, road or pathway, or

c. Necessary for the maintenance of the stream's water carrying capacity, or

d. Necessary for the placement of a pedestrian pathway to the stream, or

e. Necessary for the removal of blackberry vines, scotch broom, or other noxious vegetation provided that such vegetation is replaced with more suitable vegetation, or

f. Part of an approved restoration, enhancement, or compensatory mitigation plan, or

g. It involves the maintenance of an existing landscaped area, or

h. It is part of a landscape plan, that minimizes adverse impacts on the stream buffer, approved by the city;

Vegetation removal, pruning or mowing permitted under subsections (E)(2)(a) through (h) shall be the minimum necessary and in no case shall it impair any wetland functions and values associated with the stream;

3. Planting new vegetation is permitted where:

a. The planting is part of a landscape plan approved by the city, or

b. The planting is intended to replace dead or damaged plants that were either part of an existing maintained landscaped area or part of the existing native plant community, or

c. The planting is part of an approved restoration, enhancement or mitigation plan;

4. Vegetation management practices will be employed that minimize short-term and long-term adverse impacts on the stream. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with chemicals, or substantial alteration of any wetland plant communities. The following are not permitted:

alteration of wetland hydrology and the use of herbicides.

E. Structural bank stabilization may be permitted subject to the following standards:

1. The priorities for bank stabilization for erosion control, from highest to lowest, are:

a. Proper maintenance of existing riparian vegetation;

b. Planting of riparian vegetation;

c. Structural stabilization.

Where structural bank stabilization, such as rip-rap, is proposed, evidence shall be provided that a higher priority method of erosion control will not work.

2. Placement of structural bank stabilization material shall be permitted only if:

a. There is a critical need to protect a structure from an erosion hazard;

b. Impacts on adjacent downstream property are minimized;

c. Visual impacts are minimized; and

d. Riparian vegetation is preserved as much as possible.

3. All structural bank stabilization shall be covered with fill material and vegetated with appropriate plant material.

F. Maintenance and improvement of the stream corridor for storm drainage purposes may be permitted subject to the following standards:

1. A stream shall not be culverted except where necessary to protect an adjacent structure from flooding hazards and where it is demonstrated that there are no other alternatives; or where the public works director determines that the placement of the culvert is necessary to implement the city's storm drainage plan.

2. Realignment of an existing stream course may be permitted where the existing stream alignment poses a hazard in terms of: inadequate capacity and a stream realignment is determined to be the optimal solution; existing erosion of slopes or banks pose a hazard to public safety or property; or the existing alignment results in excessive sedimentation of the downstream channel or drainage system.

3. Stream damming may be permitted: where the damming presents a water quality or wetland benefit without adversely impacting upstream flood elevations or instream flow

benefits downstream; or as a temporary measure as part of an overall erosion control plan during construction. Within the urban growth boundary, but outside the city limits, stream damming may also be permitted for the creation of a water source where approved by the Department of Water Resources.

G. Stormwater discharge may be permitted subject to the following standards:

1. The method and location of a point-source stormwater discharge shall be approved by the public works director. The discharge point will be sited to minimize impacts on the stream corridor.

2. Stormwater runoff should be directed toward the same drainage system that would have handled the runoff under natural conditions.

3. Uses, such as large parking lots, that could potentially contaminate runoff must include measures to treat runoff before discharging it into a stream. (Ord. 08-7 § 1; Ord. 94-30 § 2)

17.116.080 Stream buffer reduction—Consideration of.

A reduction in the width of the stream buffer established by Section 17.116.030 may be considered in accordance with the requirements of Chapter 17.64, setback reduction. If a setback reduction is granted, the portion of the structure to be located in the stream buffer is to be constructed in a manner that does not require fill. (Ord. 9430 § 2)

Article VI – Land Division and Lot Line Adjustment

Chapter 17.120 GENERAL PROVISIONS

17.120.010 Purpose.

The purpose of Article VI is to:

A. Ensure building sites of sufficient size and appropriate design for the purposes for which they are to be developed and that lots to be created are within the density ranges permitted by the comprehensive plan;

B. Minimize negative effects of development upon the natural environment and to incorporate natural features into the proposed development where possible;

C. Ensure economical, safe and efficient circulation systems for pedestrians and vehicular traffic;

D. Ensure the appropriate level of facilities and services including provisions for water, drainage, and sewerage. (Ord. 95-20 § 1)

17.120.020 Compliance required.

A. No person shall subdivide or partition an area or tract of land without complying with the provisions of this title.

B. No person shall sell any lot in a subdivision or a parcel in a partition until the plat of the subdivision or partition has approval and is recorded with the recording officer of Clatsop County.

C. No person shall negotiate to sell any lot in a subdivision or a parcel in a partition until a tentative plan has been approved.

D. No person subdividing or partitioning a parcel of land, shall lay out, clear property of trees, excavate for, construct, open or dedicate thereon a street, waste disposal system, storm sewer, water supply or other improvements for public or common use unless the subdividing or partitioning has received preliminary and construction plan approval pursuant to the provisions of this chapter. (Ord. 95-20 § 1)

E. No person shall adjust the boundaries of parcels without the approval of a lot line adjustment as provided in this title.

17.120.030 Procedure.

As provided in Article II, the following review procedures shall apply:

A. Subdivisions and partitions shall be subject to a Type III procedure as provided in Article II; and

B. Lot line adjustments shall be subject to a Type II procedure as provided in Article II. **17.120.040 Land surveys.**

Before an action is taken pursuant to this title which would cause adjustments or realignment of property lines, required yard areas or setbacks, the exact lot lines shall be validated by location of official survey pins or by a recorded survey performed by a licensed surveyor. If a property boundary survey was recorded prior to January 1, 1986, a letter from the licensed surveyor responsible for the recorded survey, or another licensed surveyor, shall be submitted stating that the survey as performed and recorded is still valid and accurate and that nothing in the monumentation or methods used has changed since the survey was done which would make it inaccurate or invalid, and no known disputes of that survey exist. Failing to produce such a letter, the property owner shall be required to secure a new survey. (Ord. 96-2 § 1; Ord. 92-11 § 68; Ord. 90-10 § 1 (Appx. A § 45); Ord. 79-4a § 1 (4.955))

Chapter 17.122 LAND DIVISIONS

17.122.010 Tentative plan—Approval binding.

The tentative plan approval shall be binding on the city and the subdivider or partitioner for the purpose of preparing a final plat; provided, that there are no changes of the plan for the subdivision or partition and that it complies with all conditions set forth by the city in its tentative plan approval. (Ord. 95-20 § 1)

17.122.020 Tentative plan—Time limit.

The tentative plan shall be valid for 18 months from the date of its approval. The planning commission, upon written request by the subdivider or partitioner, may grant an extension of the tentative plan approval for a period of 1 year. In granting an extension, the planning commission shall make a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the tentative plan. (Ord. 95-20 § 1)

17.122.030 Submittal of final plat.

A. The applicant shall submit to the city a final partition plat prior to the expiration of the tentative plan approval.

B. Any final subdivision plat not submitted prior to the expiration of the tentative plan approval period shall be considered void. (Ord. 95-20 § 1)

17.122.040 Revision of proposed tentative plan.

Any revisions to a proposed tentative plan shall be reviewed by staff. If the revision is significant, a public hearing will be held before the planning commission to consider the amendment. Examples of significant changes are (significant changes are not limited to these examples): the number of lots created or the alignment of the proposed street(s) with existing streets. (Ord. 95-20 § 1)

17.122.050 Tentative plan—Form.

The tentative plan shall be clearly and legibly drawn. The size of a subdivision tentative plan shall not be less than 18 inches by 24 inches. The partition plan may be on 8.5 by 11 inch paper, mylar or other material. The map of a subdivision or partition shall be at a scale of 1 inch equals 50 feet or one inch equals 100 feet or at a scale that is sufficient to show the detail of the plan and related data. (Ord. 95-20 § 1)

17.122.060 Tentative plan—Map contents.

The tentative plan for a subdivision or partition shall contain the following information along with any supplemental information identified during the pre-application conference.:

A. Proposed name of the subdivision. The name shall not duplicate, be the same in spelling or alike in pronunciation with any other recorded subdivision;

B. North point and date;

C. Location of the subdivision or partition by section, township and range, and legal description sufficient to define the location and boundaries of the proposed tract;

D. A vicinity map, at an appropriate scale showing adjacent property boundaries and abutting land uses;

E. Names, addresses and telephone numbers of the owner or owners of the property;

F. Name, business address, telephone number, and number of the registered engineer or licensed surveyor who prepared the plan of the proposed subdivision or partition and the date of the plan preparation;

G. Streets existing: location, names, pavement widths, alleys, and rights-of-way on and abutting the tract. Source of datum shall be indicated on the tentative plan;

H. Streets, proposed: location, right-of-way, roadway widths, approximate radius of curves, and grades;

I. Streets, future: the pattern of future streets from the boundary of the parcel to include other tracts within two hundred feet surrounding and adjacent to the proposed land division;

J. Easements: location, widths and purpose of all existing or proposed easements on and abutting the tract;

K. Utilities: location of all existing and proposed storm sewers, sanitary sewers and water lines on and abutting the tract;

L. Contour lines having the following minimum intervals:

1. Two-foot contour intervals for ground slopes 20 percent or less.

2. Five-foot contours intervals for ground slopes over 20 percent.

M. Wooded areas: location of all trees with a diameter 6-inch or greater when measured four feet above the ground;

N. Flood areas: location of the 100-year floodplain;

O. Lots and parcels: approximate dimensions of all lots and parcels, all lot sizes in square feet or acres, and proposed lot and block numbers;

P. All parcels of land intended to be dedicated or reserved for public use, with the purpose, condition, or limitations of such reservations clearly indicated;

Q. Existing uses of the property, including scaled location and present use of all existing structures to remain on the property after platting. (Ord. 95-20 § 1)

17.120.070 Tentative plans—Other information.

A. Other information required for the tentative plan includes the following:

1. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units, so as to reveal the effect of the development on traffic, and fire protection;

2. Proposed covenants and restrictions;

3. Partial development. If the subdivision proposal pertains to only part of the tract owned or controlled by a subdivider, the city may require a sketch of a tentative layout for streets in the unsubdivided portion;

4. Where required by Chapter 17.108, a geologic site investigation report;

5. Where the site includes wetlands, a wetland delineation with the boundaries of the wetlands shown on the plan map;

6. If the oceanfront setback for individual lots is to be established as part of the approval of the land division, the location of the proposed oceanfront setbacks and a description of the covenants and restrictions which will be applied to the property in order to implement the setback location;

7. Other information as requested by the planning commission.

B. The city may require any of the following to supplement the tentative plan.

1. A conceptual grading plan;

2. Appropriate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction. (Ord. 95-20 § 1)

17.122.080 Subdivision, partition, final plat—Procedure for review.

A. Within 18 months after approval of the tentative plan, or such extension as may have been granted by the city, the subdivider shall cause the proposed subdivision or partition to be surveyed and a plat thereof prepared in conformance with the tentative plan as approved.

B. A written request for approval of the final plat shall be accompanied by:

1. Two copies of the final plat conforming to the requirements of this chapter;

2. Cross-sections and profiles of streets and all other construction drawings related to the improvements to be constructed in the subdivision or partition;

3. A map showing all utilities in their exact location and elevation;

4. A copy of any deed restrictions applicable;

5. A copy of any covenants and restrictions applicable. (Ord. 95-20 § 1)

17.122.090 Final plat review.

A. If the city manager determines that the final plat for either a subdivision or partition conforms to the tentative plan and applicable conditions have been met, the chairman of the planning commission shall sign and date the final plat.

B. If the city manager determines that the final plat does not conform to the tentative plan, the plat will be forwarded to the planning commission for its review. The planning commission shall approve or deny the modifications to the final plan. (Ord. 95-20 § 1)

17.122.100 Improvements to be completed.

Prior to the approval of the final plat, the subdivider shall have completed the required improvements. (Ord. 95-20 § 1)

17.122.110 Subdivision, partition—Final plat.

A. The final plat for a subdivision or partition shall be prepared in accordance with the requirements of this chapter and state law as set forth in ORS Chapter 92. For purposes of review and approval, partitions and subdivisions will be treated alike and requirements set forth in this section for subdivisions will apply equally to partitions. The following information is required on the final plat:

1. The name of the subdivision, the date the plat was prepared, the scale, north point, legend and existing features such as highways;

2. Legal description of the subdivision boundaries;

3. Reference and bearings, to adjoining surveys;

4. The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the proper courses and distances of all boundary lines shall be shown;

5. Exact location and width of streets and easements intersecting the boundary of the subdivision;

6. Subdivision block and lot boundary lines;

7. Numbering of lots and blocks, as follows:

a. Lot numbers beginning with the number “1” and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township,

b. Block numbers beginning with the number “1” and continuing consecutively without omission or duplication throughout the subdivision. When the subdivision is a continued phase

of a previously recorded subdivision bearing the same name, the previously used block numbers or letters may be continued. The numbers shall be solid, of sufficient size and thickness to stand out and so placed not to obliterate any figure, block, and lot numbers. In an addition to a subdivision of the same name, there shall be a continuation of the numbering in the original subdivision;

8. Acreage of each parcel;

9. Street right-of-way centerlines with dimensions to the nearest .01 of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries and street bearings shall be shown to the nearest second;

10. The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated;

11. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length, and bearing and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the certificate of dedication;

12. Locations and widths of drainage channels, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision;

13. Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated;

14. Any conditions specified by the planning commission upon granting preliminary approval;

15. A statement of water rights noted on the subdivision plat;

16. The following certificates shall appear on the plat as submitted. The certificates may be combined where appropriate.

a. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the plat,

b. A certificate signed and acknowledged as above, offering for dedication all parcels of land shown on the final plat and intended for any public use except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants, and servants,

c. A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and plat, the signature of such engineer or surveyor, to be accompanied by his seal,

d. Provisions for additional certificated and acknowledgments required by law. (Ord. 95-20 § 1)

Chapter 17.124 LAND DIVISION STANDARDS

17.124.010 Design standards—Principles of acceptability.

A land division, whether by subdivision or partitioning, shall conform to the design standards established by Sections 17.124.020 through 17.124.110. (Ord. 95-20 § 1)

17.124.020 Construction drawings—Design and data requirements.

Construction drawings shall be prepared for all required improvements. The applicant shall submit three sets of the construction drawings to the city.

A. Drawings shall be drawn at a scale of 1 inch equals 50 feet. Drawings shall be oriented so that north will be at the top of the page. However, when the preceding requirement proves to be impractical, then north shall be oriented to the right side of the page.

B. Profiles shall show existing and proposed elevations along centerlines of all streets. When a proposed street intersects an existing street or streets, the elevation along the centerline of the existing street or streets within 100 feet of the intersection shall be shown. Approximate radii of all curves, lengths of tangents and central angles on all streets shall be shown.

C. Plans and profiles shall show the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage easements, rights-of-way, manholes, and catch inlets; the location, size, direction of flow and invert elevations of existing and proposed sanitary sewers, stormwater system and fire hydrants.

D. Street and stormwater systems shall be shown on the same set of drawings.

E. Sanitary sewerage and water systems shall be shown on the same set of drawings.

F. Location, size, elevation, and other appropriate description of any existing facilities or utilities shall be shown on the drawings. In addition, all elevations shall be referred to the U.S.G.S. datum plane.

G. An erosion and sedimentation control plan in conformance with the requirements of the zoning code.

H. All specifications and references required by the city's construction standards and specifications shall be shown on the construction drawings.

I. Title, name, address, and signatures of the engineer and surveyor, and date, including revision dates shall be shown on the drawings. (Ord. 98-6 § 3; Ord. 95-20 § 1)

17.124.030 Overall approval standards.

In making its decision, the planning commission shall determine whether the proposed subdivision or partition complies with the applicable standards of this code and the policies of the comprehensive plan, in conformance with the requirements of Section 17.16.090. Where this chapter imposes a greater restriction upon the land than is imposed or required by existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control. Pursuant to ORS 197.195(1), the city has determined that the following comprehensive plan policies are applicable standards for a proposed subdivision or partition.

A. General Development Policies.

1. General Development Policy 4. The city shall control excavation, grading, and filling in order to: avoid landslides and other geologic hazards; protect adjacent property and structures; provide for appropriate drainage improvements; minimize the extent of vegetation removal; minimize erosion and sedimentation; and protect the aesthetic character of the city.

2. General Development Policy 5. The density of residential development throughout the city shall be based on the capability of the land in terms of its slope, potential for geologic hazard and drainage characteristics. Density limits throughout the city shall generally be:

Net Density Standards	
	Dwellings Per Acre
High (R3), (RM)	15
Duplex or medium (R2), (RMa), (MP), (RAM)	11
Moderate single-family (R1)	8
Low (RL)	4
Very low (RVL)	1

3. General Development Policy 9. To control development in areas with slopes exceeding twenty percent and areas subject to potential geologic hazards so that potential adverse impacts can be minimized.

4. General Development Policy 10. When site investigations are required in areas of potential landslide hazard, a site specific investigation shall be prepared by a registered

geologist. Based on the conclusions of this investigation, an engineered foundation design by a soils engineer may be required by the building official. When site investigations are required in areas of potential coastal erosion hazard, the site specific investigation shall be prepared by a registered geologist with expertise in shoreline processes. Based on the conclusions of this investigation, protective structures designed by a registered civil engineer may be required by the building official. Site investigation reports shall meet the city's criteria for the content and format for geologic hazard reports.

5. General Development Policy 11. Site investigations by a qualified soils engineer may be required for the construction or development of property identified by the Soil Conservation Service as containing weak foundation soils. Site reports shall include information on bearing capacity of the soil, adequacy and method of drainage facilities, and the length of fill settlement necessary prior to construction.

6. General Development Policy 12. Site investigations by a registered geologist shall be performed, prior to development, in any area with a slope exceeding twenty percent. Based on the conclusions of this investigation, an engineered foundation design by a soils engineer may be required by the building official.

7. General Development Policy 14. To ensure that development is designed to preserve significant site features such as trees, streams and wetlands.

8. General Development Policy 15. The city shall regulate the removal of trees in order to preserve the city's aesthetic character, as well as to control problems associated with soil erosion and landslide hazards.

9. General Development Policy 16. To provide flexibility in regulations governing site design so that developments can be adapted to specific site conditions.

B. Northside Policies.

1. Northside Policy 1. The Northside area, the area extending from Fifth Street to Ninth Street, shall remain primarily residential in character. Development should take place only in a manner that is compatible with sensitive lands, steep slopes, active foredunes, areas subject to flooding, wetlands and streambanks.

2. Northside Policy 3. Active foredunes shall remain in their undeveloped state in order to provide a buffer from ocean and wind erosion (please refer to hazards section of the plan).

3. Northside Policy 5. A fifteen-foot buffer on either side of Logan Creek is established to protect riparian vegetation. In order to minimize impacts on riparian vegetation, uses and activities permitted within the buffer shall be limited.

4. Northside Policy 8. Subdivision or development of the land area east of Ecola Park Road shall be carefully undertaken. Streets shall be replatted along contour lines in steeper areas, and the density of development shall be inversely proportionate to the steepness of the slopes. The area shall be platted in large lots or acreages. All development in the area shall take advantage of the existing topography and natural vegetation, particularly older trees. Prior to subdivision, issuance of a building permit, or other development, a complete geologic hazards study and topographic map shall be filed with the city.

5. Northside Policy 9. Clustering of development may be considered in order to reduce the effect of geologic hazards, protect trees and wetland areas, and to retain larger areas of open space. Where cluster development is permitted, wetland areas shall not be used in determining the permitted density of the development (no density transfer from wetland to upland areas).

C. Tolovana Park Policies.

1. Tolovana Park Policy 1. The Tolovana Park area of Cannon Beach shall remain primarily residential. Generally, the area west of Hemlock shall continue to develop with single-family dwellings on fifty-foot by one-hundred-foot lots, except where smaller lots already exist.

D. Urban Growth Area Policies.

1. Urban Growth Area Policy 3. All land use actions shall be in conformance with the city comprehensive plan and zoning ordinance. The density of development within the urban growth boundary shall be in the range of one to three acres per dwelling. The specific density shall be based on the capacity of the land in terms of slope or landslide and the availability of water service, sewage disposal and police and fire protection.

2. Urban Growth Area Policy 4. Full city services (water, sewer, police, street maintenance) shall be provided only to those developments which annex to the city. Developments within the urban growth boundary but outside the city limits shall include plans for individual utility systems which have been approved by the city.

E. Housing Policies.

1. Housing Policy 1. In order to maintain the city's village character and its diverse population, the city will encourage the development of housing which meets the needs of a variety of age and income groups, as well as groups with special needs.

2. Housing Policy 3. To the extent possible, the city shall endeavor to accommodate affordable housing in a manner that disperses it throughout the community rather than concentrating it at specific locations.

3. Housing Policy 5. The city recognizes the importance of its existing residential neighborhoods in defining the character of the community and will strive to accommodate new

residential development in a manner that is sensitive to the scale, character and density of the existing residential development pattern.

4. Housing Policy 6. The city shall preserve and enhance the qualities that contribute to the character and liveability of its residential areas. These qualities include limited traffic disruptions, uncongested streets, and a low level of noise and activity.

5. Housing Policy 11. The city will provide flexibility in regulations governing site design so that developments can be adapted to specific site conditions.

6. Housing Policy 12. The city will consider the use of cluster development and planned development techniques as a means of preserving common open space, protecting significant natural features, and providing for a variety of affordable housing types.

7. Housing Policy 13. To the extent feasible, higher density housing developments should be located in proximity to the city's major employment areas and arterial streets.

F. Hazards-Area Specific Policies.

1. Area Specific Policy 1. The Curves Area (Tolovana Hill). Further development within the large active landslide on either side of Hemlock must be carefully planned and closely monitored.

2. Area Specific Policy 2. The North End Area.

a. Topographic map coverage is important for the evaluation of the area's buildability. At the present time, this coverage is not feasible due to the dense vegetation that covers most of the area. Proposed developments, through their site investigations, should provide more detailed topographic mapping.

b. Development could be allowed on certain steep slopes where the thick basalt sill occurs as bedrock near enough to the surface for footings to be anchored in solid, fresh basalt without extensive (preferably no) excavation of oil. This area is designated Ti-basaltic intrusive rocks on the geologic hazard formations map. Efforts shall be made to retain the natural conditions of steep slopes.

c. The remainder of the north end area shall be designated low density.

G. Overall Policies-Geologic Hazards.

1. Geologic Hazard Policy 1. A site specific investigation performed by a qualified expert shall be a prerequisite for the issuance of any building permit in the following areas, and delineated on the master map:

a. Those areas consisting of landslide topography developed in tertiary sedimentary rocks (TOMS);

b. Any property containing, or adjacent to all or part of, an active landslide;

c. Any property having beach frontage;

d. The area south of Maher Street underlain by the Astoria Formation (Tma units);

e. Within the two stream drainages south of West Way.

2. Geologic Hazard Policy 2. Development requirements for the city are:

a. Structures should be planned to preserve natural slopes. Cut and fill methods of leveling lots shall be discouraged.

b. Access roads and driveways shall follow the slope contours to reduce the need for grading and filling.

c. Removal of vegetation shall be kept to a minimum for stabilization of slopes.

d. Drainage patterns shall not be altered in steeper areas. Roof drains shall be channeled into natural drainage or storm sewers.

e. No development shall be allowed to block stream drainageways, or to increase the water level or water flow onto adjacent property.

H. Flood Hazard Policies.

1. Flood Hazard Policy 2. Where development within the floodplain is allowed, assurance to the city shall be given that the development will not be expected to raise adjacent flood heights and increase public safety hazards.

2. Flood Hazard Policy 3. Development in areas subject to severe ocean erosion or flooding (the velocity zone) shall be constructed in such a way that hazards are minimized.

3. Flood Hazard Policy 4. Filling of wetlands or natural drainages shall be prohibited unless it is adequately demonstrated that it will not affect adjacent property, and the wetlands area is not, in the view of state and federal resource agencies, valuable biologically.

I. Sand Dune Construction Policies.

1. Sand Dune Construction Policy 1. The city shall prohibit residential development and commercial and industrial buildings on beaches, active foredunes, on other foredunes which

are conditionally stable and are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding. Permitted uses in these areas shall be those which are of very low intensity (such as raised wooden walkways), uses which do not cause the removal of sand or vegetation, and which could be easily removed in the event of ocean flooding, erosion or other hazard.

J. Recreation, Open Space, Natural, Visual and Historic Resources Policies.

1. Recreation, Open Space, Natural, Visual and Historic Resources Policy 11. Vegetation and tree cover along the ocean front shall be managed in a manner which retains its erosion control capabilities and maintains its contributions to the scenic character of the beach.

2. Recreation, Open Space, Natural, Visual and Historic Resources Policies Concerning Archaeological Sites.

a. The city will review land use activities that may affect known archaeological sites. If it is determined that a land use activity may affect the integrity of an archaeological site, the city will consult with the State Historic Preservation Office on appropriate measures to preserve the site and its contents;

b. Indian cairns, graves and other significant archaeological resources uncovered during construction or excavation shall be preserved intact until a plan for their excavation or reinterment has been developed by the State Historic Preservation Office. Upon discovery of any new archaeological sites, the city will address the Goal 5 requirements through an amendment to comprehensive plan background report.

K. Street Policies.

1. Street Policy 1. Streets shall be built in conformance with adopted City standards, specifications for which are contained in “Minimum Standards for Streets to be Adopted by the City of Cannon Beach.” The city planning commission may grant an exception from these standards, based on unique circumstances such as topography or number of lots to be served.

2. Street Policy 2. The city shall accept privately constructed streets into the city system only after they have been improved to city standards.

3. Street Policy 3. Adequate storm drainage shall be provided in all street improvement projects. The public works director shall specify the appropriate placement and sizing of all drainage facilities. Existing ditches or natural drainages may be acceptable if approved by the public works director.

L. Water System Policies.

1. Water System Policy 4. Large developments or heavy water users shall make equitable contributions to the improvement of the water system, and shall pay all costs associated with the extension of the water lines.

2. Water System Policy 7. Subdivisions (requiring a connection larger than one inch), planned development, motels or other uses having large water demands shall be approved only if sufficient water capacity is available.

3. Water System Policy 8. Water lines in proposed developments shall be adequately sized to meet future needs at the projected usage of density, including fire flow requirements.

4. Water System Policy 9. Fire hydrants or other fire protection devices shall be installed by the developer of major developments to the satisfaction of the City and Fire Protection District.

M. Sewer System Policies.

1. Sewer System Policy 3. Large developments shall make equitable contributions to the improvement and expansion of the sewage treatment system. Subdivisions or developments other than single-family residences and duplexes shall be approved only if sufficient capacity is available to meet present and future needs.

2. Sewer System Policy 4. Sewer lines in proposed developments shall be adequate to meet future needs of the development and shall be designed so as to minimize excavation of the road surface for future connections.

N. Fire Protection Recommendations.

1. Fire Protection Recommendation 1. In cooperation with the Cannon Beach Rural Fire Protection District, the city shall maintain and develop a strong fire protection system. Subdivisions and other developments should be reviewed by the fire department to determine if the sizing of the water system and placement of fire hydrants is adequate; developments should be allowed only if the water system is capable of providing adequate fire flow.

2. Fire Protection Recommendation 2. The city should adequately assess new development in any area to cover the cost of future water system improvement or for fire protection.

3. Fire Protection Recommendation 3. Fire hydrants or other fire protection devices shall be installed by the developer of major developments to the satisfaction of the city and the fire protection district. (Ord. 98-6 §§ 1, 2; Ord. 97-20 §§ 1—9; Ord. 96-3 § 3; Ord. 95-20 § 1)

17.124.040 Design standards—Streets.

The following design standards are required for streets:

A. Conformity. The arrangement, character, extent, width, grade, and location of all streets shall conform, insofar as practicable, with existing street layouts and the filing or application for approval of a plat or street improvement in the vicinity. Streets shall be considered in relation to existing and planned streets, topographical conditions, public convenience, geologic or soil conditions, and the proposed use of land served by such streets.

B. Relation to Adjoining Street System. The arrangement of streets in new subdivisions, and new streets in existing subdivisions, shall make provision for the continuation of the existing streets in adjoining areas.

C. Projection of Streets. Where adjoining areas are not subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets.

D. Streets to be Carried to Property Lines. When a new subdivision joins unsubdivided lands suitable for subdivision, the new streets shall be carried to the boundaries of the tract proposed to be subdivided.

E. Cul-de-sacs. Dead-end streets or cul-de-sacs, designed to be so permanently, shall not be longer than 400 feet measured from the end of the cul-de-sac to its intersection with the right-of-way of the adjoining street. The distance shall be measured along the centerline of the street terminating in the cul-de-sac. The street shall be provided at the closed end with a turnaround with a street right-of-way radius of at least 40 feet when parking is not allowed and 48 feet if parking is allowed. The planning commission may approve a hammerhead turnaround of a design acceptable to the fire district. If a dead-end street is of a temporary nature, a similar turnaround should be provided and provision made for future extension of the street into adjoining properties.

F. Street Widths. All street rights-of-way shall be at least 40 feet in width. Roadway improvements shall not be less than twenty feet in width.

G. Street Surface. Street surfaces shall be designed to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all weather driving capabilities.

H. Street Grade. The gradient of streets shall not exceed an average of 12 percent with a maximum of 15 percent on short pitches. Due to topographic conditions, an exception to this standard may be approved where a deed restriction is recorded which requires that affected buildings are provided with approved automatic fire sprinkler systems.

I. Fire Apparatus Access. The street layout shall be configured so that future building sites are located so that the maximum distance from the exterior wall of the first story of a building to a fire access road is no more than 150 feet. An exception to this standard may be provided where a deed restriction is recorded which requires that a building is completely protected with an approved automatic fire sprinkler system.

J. Intersections. The intersections of more than two streets at one point shall be avoided wherever possible. Streets shall intersect one another at an angle as near to a right angle as possible. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve of a radius acceptable to the public works director.

K. Subdivision into Tracts Larger than Ordinary Building Lots. Where a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow the openings of future streets and logical further resubdivisions. However, each lot shall contain a feasible building site.

L. Half Streets. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the planning commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

M. Street Names and Numbers. All new streets shall be approved by the planning commission and be named in accordance with existing street names and extensions and projections thereof. Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of, or in alignment with, the existing or platted street. House numbers shall be assigned in accordance with the city's house numbering system.

N. Gated Streets. Gated streets are not permitted. (Ord. 95-20 § 1)

17.124.050 Design standards—Easements.

The following design standards are required for easements:

A. Utility Lines. Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be dedicated. Easements on interior lot lines shall be ten feet in width, the centerline of which shall be the lot lines. Easements along exterior lot lines shall be ten feet in width, except no easement will be required for those lot lines paralleling a street or other public way. Tie-back easements shall be 6 feet wide and 20 feet long along lot side lines at change of direction points of the lot lines.

B. Drainage Ways. Where a subdivision or partition is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as may be adequate for the purpose but in no event less than 20 feet. (Ord. 95-20 § 1)

17.124.060 Design standards—Blocks.

The following design standards are required for blocks:

Dimensions. Block, length, width, and area within bounding roads shall be such as to accommodate the size of lots required by the zoning ordinance and to provide for convenient access, circulation control and safety of street traffic. (Ord. 95-20 § 1)

17.124.070 Design standards—Lots.

The following design standards are required for lots:

A. Size and Dimensions. The size of parcels or lots to be created by a partition or subdivision shall be determined by the zone in which the property is located and the average slope of the property from which the parcels or lots are to be created. The minimum lot size for parcels and lots created shall be as follows:

Percent of Average Slope	Minimum Lot Size per Dwelling Unit (square feet)
0—14.99	Set by zoning district
15—19.99	10,000
20—29.99	15,000
30—34.99	20,000
35+	40,000

To determine the average slope of a property proposed for subdivision the following formula shall be applied:

$$S = \frac{0.0023 \times I \times L}{A}$$

Where:
- S = Average % slope of the property
- I = The contour interval, in feet (2 feet or 5 feet)
- L = Summation of the length of the contours, in feet
- A = Area, in acres, of the property being considered

For partitions, as an alternative to the above method, the city may permit the determination of the average slope of a property by the following method:

$$\frac{\text{Vertical distance between contours}}{\text{Horizontal distance between contours}} = \frac{V}{H} = \%\ \text{slope}$$

The dimensions of lots shall not be less than required by the zoning ordinance.

B. Location. All lots shall have a 25-foot frontage on a publicly dedicated street.

C. Lines. Side lot lines shall be substantially at right angles to straight street lines or radius to curved street lines.

D. Lot Remnants. All remnants of lots below minimum size left over after subdividing a larger tract shall be added to adjacent lots or dedicated for public use rather than allowed to remain as unusable parcels.

E. Building Envelopes.

1. The planning commission shall have the authority to require the designation of building envelopes on lots or parcels of land where it finds that the designation of building envelopes is necessary for the protection of significant natural resources, such as wetlands, stream corridors or trees. Building envelopes may also be designated to avoid construction in identified geologic hazard areas. The size and shape of the building envelope shall be that which the planning commission determines necessary to protect the identified resource.

2. Where a building envelope is designated, the building envelope shall identify and limit the location of principal and accessory structures, parking areas, and associated site development, excluding roads and driveways, to the building envelope. All the elements of principal structures and accessory structures shall be located within the designated envelope, including building elements such as roof overhangs, bay windows, chimneys, unroofed landings, and decks attached to the building.

3. The planning commission may approve the modification of an approved building envelope where: (a) it finds that the intent of the original building envelope designation is maintained by the proposed modification; and (b) new facts, which were not available at the time of the original designation of the building envelope, about the characteristics of the site form the basis for the modification.

4. The planning commission shall hold a public hearing on the request for a modification to a designated building envelope pursuant to the requirements Chapters 17.14 and 17.16. (Ord. 08-02 § 2; Ord. 95-20 § 1)

16.124.080 Water rights.

If the subdivision uses the Cannon Beach municipal water supply as its only water source, a statement of that fact needs to be made. If any other source of water is used in part or in total, the subdivider must contact the state of Oregon Department of Water Resources regarding obtaining a water rights permit. (Ord. 95-20 § 1)

17.124.090 Design standards—Public sites and open spaces.

The following design standards are required for public sites and open spaces:

Within or as part of a subdivision, the planning commission may require provision of open-space sites appropriate to the scale of the subdivision. Sensitive lands such as steep slopes, streams and stream buffers, or wetlands may be included as open space areas dedicated or reserved in perpetuity. (Ord. 95-20 § 1)

17.124.100 Design standards—Trees.

No trees shall be removed in the development of the subdivision or partition except those within the designated public rights-of-way and easements for public utilities. All trees on individual building lots shall be retained until such time as plans are submitted for a building permit and approved as to specific locations of building pads, driveways, and other aspects of land disturbance. An exception to this standard can be made by the planning commission as part of the subdivision or partition tentative plan, specifying which trees are to be removed and for what purpose. (Ord. 95-20 § 1)

17.124.110 Design standards—Utilities.

All utilities shall be placed underground and meet the standards specified by the public works director. (Ord. 95-20 § 1)

17.124.120 Improvement standards and approval.

In addition to other requirements, all improvements shall conform to the requirements of this chapter and any other improvement standards or specifications adopted by the city, and shall be installed in accordance with the following procedure:

A. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. All plans shall be prepared in accordance with requirements of the city.

B. Improvement work shall not be commenced until the city has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the city has been notified.

C. All required improvements shall be constructed under the inspection, and to the satisfaction, of the city. The city may require changes in typical section and details if unusual conditions arise during construction to warrant such change in the interests of the city.

D. All underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.

E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. (Ord. 95-20 § 1)

17.124.130 Improvements.

A. Streets.

1. All streets shall be constructed in accordance with applicable standard specifications of the city. Such construction shall be subject to inspection and approval by the city.

2. Name Signs. Street name signs shall be placed at all street intersections within or abutting the subdivision. Type and location of signs shall be as approved by the city.

B. Water System. Water lines and fire hydrants serving the subdivision or partition and connecting the subdivision or partition to city mains shall be installed in conformance with the city specifications. The design and construction by the developer shall take into account provisions for extension beyond the subdivision or partition and to adequately grid the city system.

C. Sanitary Sewers. Sanitary sewers shall be installed to serve the subdivision or partition and to connect the subdivision or partition to existing mains.

D. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision or partition and to connect the subdivision or partition drainage to drainage ways or storm sewers outside the subdivision or partition. Where no drainage ways or storm sewers are present outside of the subdivision or partition, the city manager shall specify the method for accommodating the site's stormwater runoff. Design of drainage shall be in accordance with the standards established by the city and shall allow for the extension of the system to serve other areas.

E. Monuments. All monuments shall be set according to the provisions or ORS 92.060. In making the survey for the subdivision or partition, the surveyor shall set sufficient permanent monuments prior to recording so that the survey or any part thereof may be retraced according to Oregon Revised Statutes.

Interior boundary and lot monuments for the subdivision or partition shall be marked by a registered land surveyor in accordance with ORS 92.060 and referenced in the plat. The monuments shall be in place at the time the subdivision or partition is recorded.

F. Other improvements reasonable related to the impacts of the development which may be required at the partial or total expense of the developer. (Ord. 95-20 § 1)

17.124.140 Applicable standards for construction on lots and parcels.

For a period of 1 year from the date of application for a subdivision or partition, construction on lots or parcels created by the subdivision or partition shall be subject to the zoning requirements in effect at the time of the application for the subdivision or partition. Construction on lots or parcels which occurs more than 1 year from the date of application for the subdivision or partition which created the lot or parcel shall be subject to the zoning requirements in effect at the time of the application for the building permit. (Ord. 95-20 § 1)

Chapter 17.126 LOT LINE ADJUSTMENT

17.126.010 Procedure.

A. Application shall be made on a form provided by the city.

B. The city shall review the request for a lot line adjustment as provided in Section 17.120.030 to determine compliance with the standards of this title. The city manager shall approve or deny the request in writing based on the criteria in Section 17.126.020 and the Type II procedure as provided in Article II within 30 days of submittal of a complete application.

17.126.020 Lot line adjustment approval criteria.

A request for a lot line adjustment must meet all the following criteria:

A. An additional lot is not created by the lot line adjustment and the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the applicable zoning district;

B. By reducing the lot size, the lot or structures on the lot will not be in violation of the zoning ordinance requirements for that district;

C. The adjustment is not a combination or recombination of entire parcels or previously platted lots or portions thereof, except to meet minimum lot size requirements of a district.

BEFORE THE COMMON COUNCIL OF CANNON BEACH

ZO 24-01, City of Cannon Beach request for a text amendment to Municipal Code Chapter 17, Zoning	))	ORDINANCE NO. 24-XX

WHEREAS, the purpose of the Cannon Beach Comprehensive Plan is to control and promote development which is most desirable to the majority of the residents and property owners of the City; and

WHEREAS, the Cannon Beach Comprehensive Plan is intended to be a statement of the people of the community concerning their desires for future development. As such, it has been developed in an open, well-publicized process; and

WHEREAS, the purpose of the zoning ordinance is to encourage appropriate and orderly physical development in the city through standards for provision of adequate open space for light and air, desired levels of population density, workable relationships of land uses to the transportation system, adequate community facilities, assurance of opportunities for effective utilization of land, and to promote in other ways public health, safety, convenience and general welfare; and

WHEREAS, the purpose of the zoning ordinance amendment process is to provide a method for carefully evaluating potential changes to ensure that they are beneficial to the city; and

WHEREAS, the subdivision and land partitioning review procedures have been established to ensure building sites of sufficient size and appropriate design for the purposes for which they are to be developed and that lots to be created are within the density ranges permitted by the comprehensive plan; and

WHEREAS, the subdivision and land partitioning review procedures have been established to minimize negative effects of development upon the natural environment and to incorporate natural features into the proposed development where possible; and

WHEREAS, the subdivision and land partitioning review procedures have been established to ensure economical, safe and efficient circulation systems for pedestrians and vehicular traffic; and

WHEREAS, the subdivision and land partitioning review procedures have been established to ensure the appropriate level of facilities and services including provisions for water, drainage, and sewerage; and

WHEREAS, periodically, as local goals and needs change and new information is obtained, the zoning ordinance, as codified in this title, should be updated.

WHERAS, the public hearing on the above-entitled matter was opened and closed before the Planning Commission on 01/25/24, 02/15/24 and 03/28/24 meetings and recommended to the City Council that the Zoning Ordinance Text Amendments to Chapter 17 Zoning be approved; and

WHEREAS, the public hearing on the above-entitled matter was opened and closed before the City Council at the 05/07/24 meeting and the City Council rendered a final decision to approve the Zoning Ordinance Text Amendments to Chapter 17 Zoning.

NOW, THEREFORE, THE CITY OF CANNON BEACH ORDAINS AS FOLLOWS:

Section 1. The Zoning Ordinance Text Amendments to Chapter 17 Zone is amended as adopted.

Section 2. The Findings of Fact and Conclusions of Law attached to this Ordinance as Exhibit A are adopted in support of this decision.

ADOPTED by the Common Council of the City of Cannon Beach this 7th day of May 2024, by the following roll call vote:

YEAS:
NAYS:
EXCUSED:

_____
Barb Knop, Mayor

Attest:

_____
Bruce St. Denis, City Manager

Approved as to Form

_____
Ashley Driscoll, City Attorney

CANNON BEACH CITY COUNCIL

BEFORE THE CITY COUNCIL

OF THE CITY OF CANNON BEACH

IN THE MATTER OF A ZONING TEXT AMENDMENT:

CITY OF CANNON BEACH REQUEST FOR ZONING ORDINANCE TEXT AMENDMENTS TO CHAPTER 17, ZONING.

FINDINGS OF FACT, CONCLUSIONS AND ORDER NUMBER – ZO #24-01

Applicant: City of Cannon Beach
163 E. Gower Street
Cannon Beach, OR 97110

The City of Cannon Beach applied for a zoning text amendment to Chapter 17 of the City of Cannon Beach Zoning Ordinance. The zoning text amendment request was reviewed against the criteria of the Municipal Code, Section 17.86.070(A), Amendments Criteria and the Statewide Planning Goals.

The initial evidentiary public hearing on the above-entitled matter was opened before the Planning Commission on January 25, 2024, and the matter was continued. The application was further discussed at the February 15, 2024, Plan Commission work session meeting. The application was further discussed at the March 28, 2024, Plan Commission meeting; the Planning Commission closed the public hearing at the March 28, 2024, meeting, and after deliberating recommended to the City Council that the text amendment to the zoning ordinance be approved.

The public hearing on the above-entitled matter was opened before the City Council on 05/07/24; the City Council closed the public hearing at the 05/07/24 meeting and approved the text amendment to the zoning ordinance.

THE CITY COUNCIL ORDERED that the TEXT AMENDMENT TO THE ZONING ORDIANCE be APPROVED through the adoption of an ordinance and findings of fact, conclusions and conditions contained in Exhibit "A." The effective date of the ordinance is 30 days following adoption of the ordinance.

This decision may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) by an affected party by filing a notice of intent to appeal a land use decision within 21 days after the date of the decision sought to be reviewed becomes final.

All information submitted to and utilized by the Plan Commission and City Council to make this decision are adopted by reference (including but not limited to applications, plans, documentation, written and oral testimony, exhibits, etc.).

The complete case, including the final order is available for review at the city.

CANNON BEACH CITY COUNCIL

_____ _____

Mayor Barb Knop Date

CANNON BEACH CITY COUNCIL

STAFF REPORT

TEMPORARY STRUCTURE FOR CITY HALL AND POLICE STATION

Agenda Date: May 7, 2024 **Prepared by:** Bruce St.Denis, City Manager

BACKGROUND

At the April 24th Council work session, CIDA presented options for temporary facilities (modulars) during construction of the new City Hall and Police Station. Offices for both functions will be located at the east end of 2nd street just west of the Recycling Center. The intent was to purchase one of the modulars and place it on the old Cannon Beach Elementary School (CBE) site for the Food Pantry to use.

ANALYSIS/INFORMATION

The modular being considered for reuse was 60x36, however there are concerns of how it fits at the CBE site. After discussions, it was decided a 24x60 modular would fit the site better.

Staff attended the Cannon Beach Food Pantry board meeting on April 29th to discuss the options. While a 24x60 modular is smaller than their current building, the food pantry agreed that they could adjust operations to fit the new facilities.

RECOMMENDATION

Council to provide a consensus to proceed with the purchase of a 24x60 modular that will be repurposed for the Food Pantry.

List of Attachments
None

City of Cannon Beach
Monthly Status Report

To: Mayor and City Council
From: City Manager Bruce St. Denis
Date: May 7, 2024

Community Development Monthly Report, March 2024

Planning Commission: The Planning Commission met on March 7, 2024 to consider the following items:

- **Continuation of ZO 23-02,** City of Cannon Beach request for Zoning Ordinance text amendments to Chapter 17.43 Wetland Overlay Zone.

Planning Commission: The Planning Commission met on March 12, 2024 to consider the following items:

- **Continuation of ZO 23-02,** City of Cannon Beach request for Zoning Ordinance text amendments to Chapter 17.43 Wetland Overlay Zone.

Planning Commission: The Planning Commission met on March 28, 2024 to consider the following items:

- **SR 24-01,** Brent Burton application requesting a setback reduction to reduce the required front and side yard setbacks in order to construct a single-family dwelling on an undeveloped lot located near the intersection of S. Hemlock and Center Streets.
- **ZO 24-01**, City of Cannon Beach request for a text amendment to Municipal Code Chapter 17, Zoning. The request is for a general reorganization of the zoning ordinance and combination with chapter 16, subdivisions

Design Review Board: The Design Review Board met on February 21, 2024 to consider the following items:

- **Continuation of DRB 24-04 WRB Construction LLC**, on behalf of Tolovana Sands Condominiums, Application for exterior alterations to existing buildings.
- **DRB 24-05** Jen Dixon, applicant, on behalf of the Cannon Beach Library for freestanding signage.
- **DRB 24-06** David Bisset, applicant, on behalf of Cannon Beach Conference Center for exterior alterations to existing structures and landscaping changes.
- **DRB 24-07** CIDA Inc., applicant, on behalf of the City of Cannon Beach for a new City Hall building
- **DRB 24-08** Friends of Haystack Rock application for freestanding signage.

The Chair of the DRB, approved minor modifications for the following addresses:
None

Short-term Rentals March

Program	Number of permits
14-day permit	142
Lifetime Unlimited permit	43
5-year Unlimited permit	5
Total permits	190
New short-term rentals this month	0
Pending short-term rentals	10

Tree Report March

Date	Location	Hazard	Dead	Const.	Health other	Solar	Replant Req.
3/6/2024	740 Monica Ct.			21			0
3/6/2024	750 Monica Ct.			17			0
3/6/2024	780 Monica Ct.			54			0
3/14/2024	TL 51019AD00303	1					1
3/18/2024	860 Ecola Park Rd	2					2

Other Planning/Building Matters:

- CD Staff continues to support and work with Urbswork on the Wetlands Amendments, the zoning code reorganization, Housing Focus Group and code audit.
- CD Staff work with Tree Focus Group on the amendments to Section 17.70 Tree Removal and Protection of the zoning ordinance.
- CD Staff participated in initial Cannon Beach Budget Committee meeting.
- CD Staff participated with CREST and regional planning partners for the Ecola Creek Design project.
- CD Staff participated with CREST and regional planning partners for Clatsop Regional Housing Task Force.
- CD Staff participated in population forecasting with the Population Research Center (PRC) at Portland State University (PSU).
- CD Staff continues to participate in the Cannon Beach Elementary School, Police Station, and City Hall projects.
- CD Staff continues working with the attorney on the Roberts LUBA appeal.

Building Department Permit Fees: March 1-31, 2024

Building	Issued	Permit Fees	Value	Affordable Housing Tax Fund*
New SFR	3	$92,937.29	$2,080,000.00	$16,972.80
Remodel	1	$29,691.18	$1,400,000.00	-
Addition	-	-	-	-
Alteration	-	-	-	-
Repair	-	-	-	-
Replacement	-	-	-	-
Tenant Improvement	-	-	-	-
Commercial	3	$5,558.18	$436,200.00	-
Total	**7**	**$128,186.65**	**$3,916,200.00**	**$16,972.80**

*Affordable Housing Tax Collection is 1% of the value of the building permit and is distributed as follows:
Four percent as an administrative fee to recoup the expenses of the city. After deducting the administrative fee, Fifteen percent is distributed to the Housing and Community Services Department to fund home ownership programs that provide down payment assistance (paid to the state). Fifty percent to fund developer incentives allowed or offered and Thirty-five percent for programs and incentives of the city related to affordable housing. This eighty-five percent goes into the City's Affordable Housing Fund.

Affordable Housing Summary	Month to Date	Year to Date	Total to Date
Residential	**$16,972.80**	**$35,719.99**	**$358,151.24**
Commercial	$0	$0	$64,823.42
Total	**$16,972.80**	**$35,719.99**	**$422,974.66**
Other Permits	**Issued**	**Permit Fees**	
Mechanical	12	$243.74	
Plumbing	8	$303.96	
Total	**20**	**$547.70**	

Public Works Department Report – April

Parks:

- Two new memorial frames were added to the bandstand, may add additional.
- Ordered replacement parts for the playground.
- Tennis courts power washed and cleaned up for the season.

- Baseball field is uncovered and put the bases out.
- Weeding the Rose Garden
- Helped with the Tree City USA annual signage update.
- Tree planting for 12 days of earth day.
- Started seasonal mowing.
- The water truck is ready to start watering hanging baskets.
- Planted more trees. Shore pines and Walnut Mertel, Cypress around Les Sherly

Water:

- Several plumbers assist on leaks and parts.
- Repaired the 12" main blow out on 5th and Ecola Park Road.
- North and South Reservoirs, drained and filled for construction of seismic valves.
- Water leak at Filter Plant repaired.
- Vactor and repair several small leaks.
- Replaced several broken meter boxes and lids.
- Helped Arch Cape with new water service tap (under IGA agreement)
- Hydrant repair at Siuslaw and Pacific.
- New service installation at 743 Ash.
- Upgrade main valve box on Ash and send GIS location to GeoMoose.
- Began lead service line inventory for State requirement.
- Hydrants installed at North and South Reservoirs.
- Educated customers on Eye on Water (Total: 868 signed up).
- Conducted monthly meter reads, and updated Caselle.
- Daily reads and checks completed at PW yard, Filter plant and City Hall.
- Completed weekly locates and work orders.
- Notified multiple users of water leaks and high use.
- Weather data collected and posted.

Wastewater:

- Demolition and removal of old Matanuska pump station electrical room.
- Prepare the interior of Matanuska for relocation of all the existing electrical equipment to the walls of new structure.
- Clean all the lift station wet wells and several of the gravity sewer main lines and laterals.
- Spring cleaning around the treatment plant's grounds.
- Blower system maintenance at the plant.
- Generator training from Peterson CAT on two of the brand-new units that just went into service at Midway and Siuslaw.

Roads:

- Shoulder (ROW) rebuilding, scraping, and re-rocking.
- Ramps to the beach and the outfalls all open on the beach plus installing a new rock stair on Midway beach access.
- Built a new dumping/ dewatering ramp at the wastewater pond for cleaning out vactor trucks.
- Built a little bit bigger rock pad to park another bin at wastewater for construction debris so we can keep the street sweeper dumpster just for the streetsweeper.
- Picking up garbage cleaning catch basins pothole sweep filling potholes with cold mix.
- Helped Emergency Manager with storing food and cooking supplies in the cash sites.

- Cleaned graffiti off city signs, bathrooms, and park areas.

Emergency Management – April

- Wayfinding Wednesday –April 3rd
- Funeral Service in CB with traffic control assist
- DOGAMI meeting to discuss Fir St Bridge and Vertical Escape Structures in Cannon Beach
- Pacific Power interview and discussion for Power Shutoffs
- Tour of cache sites – State representatives – EVCNB
- Host community gathering to discuss ORAM/DHS Resiliency Hub Grants 3/18/24
- R/D cache tenting solutions - Added tents – sleeping bags to cache sites
- Added Kitchen set ups for all cache sites
- Cache inventory 2024 continued – added kitchen and new food stocks – removed outdated food stocks
- Bid and walk through of possible site to move the TANGO resiliency hub equipment
- Budget presentation to City manager with Finance team
- Starlink kit development for alternate sites
- Community outreach with CERT leader – Breakers Point leadership
- CERT readiness briefing for PDX – NET training
- Police Chief interviews
- Grant drafted to receive 2 CONEX boxes to replace large TANGO building equipment
- Resiliency Hub grant submitted – Value $250,000.00
- Drafted and sent out 9 Letters of Support for regionalized resiliency hubs
- DOGAMI letter of support drafted and signed by mayor- sent to State Legislature
- Cache Site opening for community barrel program
- Visited Onion Peak site and maintenance work for improvement of radio / mesh net preparation
- Attend State Oregon Prepared conference
- Visit Portland NET with CERT team members- participate in group training

Haystack Rock Awareness Program (HRAP) – April

- March Beach Contacts: 7451 (March 2023: 8938)
- March Visitor Thanks: 5362 (March 2023: 5241)
- Hours on the Beach: 161.25 (March 2023: 157)
- Number of Beach Shifts: 36 (March 2023: 37)
- Number of new volunteers: 2
- Bird Sightings: Common Merganser, Harlequin Duck, Common Murre, Bald Eagle, Golden Eagle, Black Oystercatcher, Surf Scoter, Pelagic Cormorant, Black Turnstone, Tufted Puffin, and Pigeon Guillemot
- Injured Wildlife Rescues: 2
- Nesting Birds Reports: Tufted Puffins were first spotted on April 3rd, consistent nesting and mating activity of Tufted Puffins, Common Murre, Pigeon Guillemot, Pelagic Cormorant, and Black Oystercatchers. Bald Eagle predation occurring daily.

Public Safety Report – March 2024

Staffing:	**Authorized**	**Assigned**
Sworn	9	9
Code Enforcement	1	1
Admin/Support	2	2
Parking/Information	6	0
Lifeguards	10	0 (15 incl. fire personnel)

	2024	**2023**
Station Activity:		
CBPD Walk-in	131	171
CBPD Incoming Phone	210	215
SPD Dispatched Calls	103	101
Overnight Camping Warnings	20	24
Local Security Checks	3669	3006
Parking Citations	52	10
Traffic Warnings	281	306
Traffic Citations	29	39
DUII Arrests	0	2
Alarm Responses	8	5
AOA, Including FD	20	33
Citizen Assists	16	9
Transient Contacts	2	12
Total Case File Reports	**192**	**162**

Cases of Significance:

Suspicious Circumstance	7 Cases	DV Disturbance:	4 Cases
Crim Mischief II:	1 Case	Harassment:	1 Case
Menacing:	2 Cases	Disorderly Conduct:	2 Case
Weapons Laws:	1 Case	Welfare Check:	5 Cases
Fraud:	2 Cases	Fireworks: Cited	1 Case
Harassment:	1 Case	Curfew Violation:	1 Case
Menacing:	2 Cases	Theft II:	2 Cases
False Info to Police Officer:	1 Case	Hit and Run:	1 Case
Identity Theft:	1 Case	Offensive Littering:	1 Case
Reckless Endangering:	1 Case	Telephonic Harassment:	1 Case
Warrant Arrest:	1 Case		

Traffic Citations:

Driving with Suspended License: -Violations	5 Citations	No Operators License:	2 Citations
Expired Registration/Improper Display:	2 Citations	Fail to Use Seatbelt:	1 Citation

Unlawful Use of Electronic Device:	4 Citations	No Insurance:	4 Citations
Fail to Register Vehicle:	1 Citation	No Proof of Insurance:	1 Citation
Violation of Basic Rule/Speeding:	9 Citations (84/55, 80/50, 43/25, 77/55,81/55, 77/55, 73/55, 75/55, 78/55)		

Code Enforcement Activities: During this period, **19** municipal code violations were addressed and resolved or pending resolution.