

City of Depoe Bay

ORDINANCE NO. 172

AN ORDINANCE AMENDING ORDINANCE NO. 24 (DEPOE BAY ZONING ORDINANCE), AS AMENDED, ORDINANCE NO. 69 (DEPOE BAY COMPREHENSIVE PLAN), ORDINANCE NO. 72 (ESTUARINE PLAN), AND ORDINANCE NO. 111 (DEPOE BAY PARTITION AND SUBDIVISION ORDINANCE); ENACTING PROVISIONS REQUESTED AS A RESULT OF THE PERIODIC REVIEW OF THE DEPOE BAY ZONING ORDINANCE BY THE CITY OF DEPOE BAY, PURSUANT TO REVIEW BY THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the Depoe Bay Planning Commission reviewed the Zoning Ordinance and Comprehensive Plan, pursuant to ORS 197.640; and

WHEREAS, the Department of Land Conservation and Development has made certain suggestions for revisions to the Comprehensive Plan and Zoning Ordinance as a part of the Periodic Review of said Plan and Ordinance; and

WHEREAS, the Depoe Bay Planning Commission approved certain changes of the Comprehensive Plan and Zoning Ordinance at a public hearing held on July 31, 1990 and has recommended those changes to the Depoe Bay City Council; and

WHEREAS, the Depoe Bay City Council held a public hearing on or about August 1, 1990 and considered the changes recommended by the Planning Commission; and

WHEREAS, as an oversight, the changes were not incorporated into Ordinance form and adopted following the August 1, 1990 Council meeting, and

WHEREAS, the City Council of the City of Depoe Bay finds and determines that the changes recommended by the Planning Commission and as approved by the City Council following a public hearing on or about August 1, 1990 should now be implemented,

NOW, THEREFORE, the City Council of the City of Depoe Bay ordains as follows:

1. Ordinance No. 69, the Depoe Bay Comprehensive Plan, be and is hereby in the following particulars:

a. Goal 2 and Goal 14, Policy 14, is hereby amended in its entirety to read as follows:

"The Planning Commission shall review the entire Comprehensive Plan and implementing ordinances at least upon notice from DLCD pursuant to OAR 660-19, Periodic Review. Other more limited reviews may occur at shorter intervals to address specific concerns."

b. Goal 2 and Goal 14 shall be amended by adding a new Policy No. 21 to read as follows:

"Policy 21.: The City of Depoe Bay shall not consider age, gender or physical disability to be an adverse consideration in evaluating a land use decision, as defined in ORS 197.015(10), or in any other decision over which the City has control."

c. Goal 2 and Goal 14. Goals 2 and 14 shall be amended by adding an additional Policy No. 22 to read as follows:

"Policy 22. The City recognizes the establishment of an Emergency Correction Facilities Siting Authority pursuant to ORS 179.010. The Siting Authority has the authority to make corrections facility siting decisions subject to the Governor's approval. Such decisions will be binding on the City as to the approval of the site and the construction and operation of a corrections facility."

d. Goal 2 and Gold 14. Goal 2 and Goal 14, Policy 18 is hereby amended in its entirety to read as follows:

"Policy 18. Pursuant to the Federal Consistency requirements of the Coastal Zone Management Act (Sec. 307), all State and Federal permits for activities covered under said act affecting land use within the City shall be reviewed by the City for compliance with the Comprehensive Plan before final disposition of the permit by the issuing agency."

e. Goal 2 and Goal 14. Goals 2 and 14 shall be amended by adding an additional Policy No. 23 to read as follows:

"Policy 23. Exceptions process. Exceptions from State Goals and Guidelines requirements for specific properties shall be considered by the City upon petition by the property owner to the City Council, or as initiated by the City Council. The following criteria having been determined:

(1). Reasons for the exception justify why the State policy embodied in the Goals should not apply;

(2). Areas which do not require a new exception cannot reasonably accommodate the use.

(3). The long term environmental, economic, social and energy consequences resulting from the use of the

proposed site are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception;

(4). The proposed uses are compatible with other adjacent uses or will be so through measures designed to reduce adverse impacts;

(5). The proposed exception satisfies all requirements of current Oregon Statutes and Administrative Rules pertaining to Goal exceptions."

f. Goal 6 - Air, Land and Water Resources, Policy 8 is hereby amended in its entirety to read as follows:

"The City of Depoe Bay shall include updated water quality information within the Comprehensive Plan inventory during State mandated Periodic Reviews or during limited reviews pertaining to City water supply if such information is available from the Oregon Department of Environmental Quality or other certifiable source."

g. Goal 8 - Recreation. Goal 8 is hereby amended by adding an additional Policy 10 to read as follows:

"Policy 10. The City of Depoe Bay shall cooperate with and encourage the Oregon Highway Department Parks Division in the development of a State Parks Master Plan, consistent with the maintenance, creation or enhancement of current or proposed State owned parks."

h. Goal 9 - Economy. Goal 9 shall be amended by adding as an additional Policy 5 to read as follows:

"Policy 5. The City of Depoe Bay shall develop a Waterfront Development Master Plan to allow for effective and efficient development consistent with the character and potential of Depoe Bay. The City shall work with local, state and federal groups or agencies in developing the plan."

i. Goal 10 - Housing, is hereby amended by adding as an additional policy 4 the following:

"(4) The City of Depoe Bay shall amend and update the housing needs included in the inventory when information from the Lincoln County Assessors' Office becomes available."

j. Goal 11. Goal 11, Policy 12 is amended in its entirety to read as follows:

"Policy 12. The City of Depoe Bay shall rely on the Lincoln County School District for the provision of public education. The City supports all efforts to enhance and improve educa-

tional facilities in Lincoln County and continued busing of Depoe Bay students. The City supports the concept of developing additional Lincoln County School facilities within Depoe Bay."

k. Goal 12 - Transportation. Goal 12 is hereby amended by adding as additional Policies 9 and 10 to read as follows:

"Policy 9. The City of Depoe Bay shall allow emergency repair or alterations on the Depoe Bay bridge by the State Highway Division or their authorized representative upon notification that such repair or alteration is found to be necessary to insure continued safe vehicular or pedestrian crossing.

Policy 10. The City of Depoe Bay shall encourage and cooperate with local, state or federal agencies in the development of transportation plans which provide for the preservation, aesthetic enhancement and continued safe operation of transportation routes within the City of Depoe Bay planning area."

1. Goal 16 - Estuarine Resources. This should be added to the Comprehensive Plan, Goal 16, Estuarine Resources, the following Goal and Policy:

Goals.

1. To recognize and protect the unique economic, social and environmental resource capabilities of Depoe Bay Estuary.

Policies.

1. The City of Depoe Bay shall implement and maintain a Depoe Bay Estuary Plan consistent with Goal 16 Estuarine Resources requirements for shallow draft development estuaries."

2. Ordinance No. 24, as amended, is hereby amended in the following particulars:

a. Section 1.030 is amended with respect to the below definitions and said definitions are amended in their entirety:

"Accessory Use: A structure or use subordinate and normally incidental to the main use of a property and located on the same lot as the main use.

Buildable Area: For ocean front lots and lots with intervening ownership which does not prevent coastal erosion of the property, the amount of area from the existing line of mean high water to the landward extent of the property.

Day Care Facility: A facility accommodating fewer than 13 children for the purposes of day care in the provider's home, or meeting the definition and standards as contained in ORS 418. The provider's children are included for the purposes of this definition.

Deck, unenclosed: A non-covered attached or unattached structure accessory to the main use of the property, having no components necessary to the structural support of the main use.

Deck, enclosed: A covered attached or unattached structure accessory to the main use of the property, having no components necessary to the structural support of the main use.

Factory Built Dwelling: A dwelling unit built substantially or entirely at a place other than the residential site, including prefabricated or modular homes, inspected and certified as having been constructed in accordance with the requirements of the Uniform Building Code and City regulations, but excluding mobile or manufactured homes.

Family Day Care Provider: A day care provider who regularly provides day care in the provider's home in the family living quarters.

Flag Lot: A lot, the major portion of which has access to a road or street by means of a narrow strip of land called the 'staff.' The staff shall have a minimum width and frontage of not less than 25 feet.

Lot Area: The total horizontal area within the lot lines of a lot, exclusive of streets or easements of access to other property. The staff portion of a flag lot shall not be used

in computing the size or area of the lot for zoning or building purposes.

Manager/Owner/Caretaker Residence: A residence, secondary to the main use of the property, for the sole purpose of providing living quarters for the owner, operator or caretaker of a new or ongoing commercial or industrial enterprise.

Manufactured Home: For construction classification purposes, 'manufactured home' means a structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), as amended on August 22, 1981.

Mobile Home: A detached single-family dwelling unit constructed under HUD building requirements and designed to be towed or transported to a placement site on wheels, or meeting the current definitional requirements of ORS 446.003 (17), including:

- a. Residential trailers constructed before January 1, 1962.
- b. Mobile houses constructed between January 1, 1962 and June 15, 1976 which met Oregon construction requirements then in effect.
- c. Manufactured Homes constructed to federal standards.
  - (1) Single-Wide: A mobile home constructed and transported as a single frame unit. A single-wide may have extensions or tilt-out areas, but remains a single frame unit after set up.
  - (2) Multi-Wide: A mobile home constructed and transported as two or more frame units which are structurally connected on site to form one or more dwelling units.

Mobile Home Park: A facility which provides for the placement of four or more residential manufactured housing units on a space rent basis.

Partition Land: To divide land into two or three parcels of land within a calendar year, but does not include:

- (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for sale of real property or the creation of cemetery lots; or
- (b) 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 is reduced

in size by the adjustment, complies with the Depoe Bay Zoning Ordinance; or

(c) 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 Depoe Bay Comprehensive Plan and O.R.S. 215.213(2)(q) to (s) and 215.283(2)(p) to (r).

Plat: a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a major or minor partition.

Residential Home: A residence, except nursing homes, operated as a group home for mentally or physically handicapped persons which may require the assistance of on site care givers.

b. Section 3.010(1), is amended by adding as additional subsections (f) and (g) as follows:

- "f. Residential homes.
- g. Family day care provider."

c. Section 3.010(3)(a)(2) is amended by adding at the conclusion of the sentence the following:

", except flag lots."

d. Section 3.010(3)(a) is hereby amended by adding as an additional subsection (4) the following:

"(4) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the landward extent of the property."

e. Section 3.020, subsection (1) is amended by adding as additional subsections (h) and (i) as follows:

- "h. Residential homes.
- i. Family day care provider."

f. Section 3.020(3)(a)(2) is amended by adding at the conclusion of the sentence the following:

", except flag lots."

g. Section 3.020(3)(a) is hereby amended by adding as an additional subsection (4) the following:

"(4) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the landward extent of the property."

h. Section 3.030, subsection (1) is amended by adding as additional subsections (i) and (j) as follows:

- "i. Residential homes.
- j. Family day care provider."

i. Section 3.030(3)(a)(2) is amended by adding at the conclusion of the sentence the following:

", except flag lots."

j. Section 3.030(3)(a) is hereby amended by adding as an additional subsection (4) the following:

"(4) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the landward extent of the property."

k. Section 3.040, subsection (1) is amended by adding as additional subsections (i) and (j) as follows:

- "i. Residential homes.
- j. Family day care provider."

l. Section 3.040(3)(a)(2) is amended by adding at the conclusion of the sentence the following:

", except flag lots."

m. Section 3.040(3)(a) is hereby amended by adding as an additional subsection (4) the following:

"(4) Lot area for ocean front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the line of mean high water to the landward extent of the property."

n. Section 3.050(3)(a)(2) is amended by adding at the conclusion of the sentence the following:

", except flag lots."