

CITY OF DEPOE BAY
ZONING

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ORDINANCE NO. 24
ZONING REGULATIONS
CITY OF DEPOE BAY

AN ORDINANCE REGULATING THE USE OF LAND AND STRUCTURES IN THE CITY OF DEPOE BAY, OREGON, AND ESTABLISHING ZONES FOR THAT PURPOSE.

The Council of the City of Depoe Bay, State of Oregon, does ordain as follows:

ARTICLE 1. INTRODUCTORY PROVISIONS

Section 1.010. Title. *(as amended 8/19/80, ORD 71)* This ordinance shall be known as the City of Depoe Bay Zoning Ordinance of 1975, as amended.

Section 1.020. Purpose. The purpose of this ordinance is to promote the public health, safety, and general welfare and to assist in carrying out the comprehensive plan for the City of Depoe Bay.

Section 1.030. Definitions. *(as amended 8/19/80- ORD 71, 7/7/82- ORD 92 & 93, 4/6/87-ORD 130, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 6/1/92-ORD 178, 2/16/93-ORD 187, 12/16/96-ORD 234, 12/16/96-ORD 236, 1/6/03-ORD 261, 4/6/04-ORD 256, 11/2/04-ORD 268, 3/21/07-ORD 278, 5/4/10-ORD 287)* Where definitions conflict with ordinance language, the ordinance shall control. Where terms are not defined, they shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1986, shall be considered as providing ordinarily accepted meanings.

The following definitions are applicable to Ordinance No. 24, as amended. Definitions are not intended to be used independently from the ordinance section where the word is used. Definitions may establish a standard but cannot be applied except in context with the relevant ordinance sections.

1. Access: The way or means by which pedestrians and/or vehicles enter and leave property.
2. Accessory Structure: A detached structure subordinate and normally incidental to the main use of a property and located on the same lot as the main use. *(added 4/6/04-ORD 256)*
3. Accessory Use: A use subordinate and normally incidental to the main use of a property and located on the same lot as the main use. *(amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
4. Airport: A tract of land or water that is maintained for the landing and take off of aircraft and for receiving and discharging passengers and cargo and the repair, storage and supplying of aircraft.
5. Alley: A public way, providing a secondary means of access to property.
6. Alter: To change any of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

7. Appeal: A request for a review of a decision. *(added 4/6/04-ORD 256, see also Sec 3.3.70)*
8. Aquaculture: The raising, feeding, planting and harvesting of fish, shellfish or marine plants, including facilities necessary to engage in the use.
9. Area of Shallow Flooding: A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). Wherein base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. *(added 4/6/04-ORD 256, see also Sec 3.370)*
10. Area of Special Flood Hazard: The land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letter A or V. *(added 4/6/04-ORD 256, see also Sec 3.370)*
11. Automobile:
 - a. Repair Garage: Is a use providing for the major repair and maintenance of motor vehicles and includes any mechanical and body work, straightening of body parts, painting, welding, or storage of motor vehicles not in operating condition.
 - b. Service Station: Any premises used for supplying gasoline, oil, minor accessories and services, excluding body and fender repair, for automobiles at retail direct to the customer.
 - c. Wrecking Yard: Any property where two or more vehicles not in running condition, or the parts thereof, are stored in the open and are not being restored to operation; or any land, building or structure used for the wrecking or storing of such motor vehicles or the parts thereof.
12. Base Flood (100 Year Flood): A flood having a one percent (1%) chance of being equaled or exceeded in any given year.
13. Basement: A portion of a building which has less than one-half (1/2) of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground, and not deemed a story unless the ceiling is six (6) feet or more above the grade.
14. Basement (Flood Hazard Zone): Any area of the building having its floor subgrade (below ground level) on all sides. *(added 4/6/04-ORD 256, see also Sec 3.370)*
15. Block: An area of land which contains one or more tax lots and which is normally bounded on all sides by streets. A block must be bounded on at least one side by a street, and may be bounded on the remaining sides by streets, unsubdivided land, streams, the ocean, or any combination thereof. *(as amended 4/6/04-ORD 256)*
16. Boundary Line: The line defining the perimeter of a lot, parcel, area or tract of land. *(added 4/6/04-ORD 256)*
 - a. Front Line: The boundary line separating the lot or parcel from the street, other than an alley. In the case of a corner lot or parcel, the shortest boundary line along a street, other than an alley, or in the case of a lot or parcel which does not front directly upon a public street, that line toward which most houses in the immediate area face.

- b. Rear Line: A boundary line which is opposite and most distant from the front line. In the case of an irregular, triangular, or other shaped lot or parcel, a line which is a minimum of ten (10) feet in length, parallel to and at maximum distance from the front line, connecting at least two side lines.
 - c. Side Line: Any boundary line not a front or rear line.
17. Breakaway Wall: 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. *(added 4/6/04-ORD 256, see also Sec 3.370)*
18. Building: A structure built or assembled for the support, shelter, or enclosure of persons, animals, or property.
- ** Buildable Area: *(amended 10/7/91-ORD 172, Deleted 4/6/04-ORD 256)*
19. Building Height: *(as amended 12/22/92-ORD 185, 4/6/04-ORD 256)*
- a. For Height Limitation: On all lots except those described in subsection b. below, the height of a building is the vertical distance above the lowest finished grade measured to the highest point of the building.
 - b. For Height Limitation on Residential Lots With 20% Slope or Greater: On residential lots where the average pre-construction elevation of the ground within the building footprint slopes more than 20%, the height is measured from the average finished grade around the building to the highest point of the building, or the average pre-construction elevation of the land within the building footprint to the highest point of the building, whichever results in the lowest elevation for the top of the building. The property owner is responsible for submitting documentation of pre-construction elevations.
 - c. For Establishing Setbacks: The setback from structures to property lines shall be based on the height of the building on the side in question. The height of the side shall be measured from the lowest grade to the highest point of the building.
20. Built: Created by assembling basic elements such as foundations, floors, walls, roofs, plumbing and wiring systems, etc., by following step-by-step construction procedures.
21. Campground: A development providing for transient lodging accommodations and similar needs resulting from the demand generated by outdoor recreation activities, and which may include structural improvements such as covered cooking areas, lodges or other group facilities, and cabin or travel trailer sites designed for temporary occupancy.
22. Carport: A covered shelter for an automobile open on two or more sides.
23. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, mortuaries, when operated in conjunction with and within the boundary of such cemetery.
24. Christmas Trees: Cultured; means trees:
- a. Grown on land used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

- b. Of a species for which the Department of Revenue requires a “Report of Christmas Trees Harvested” for purposes of ad valorem tax;
 - c. Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the U.S. Department of Agriculture; and,
 - d. Evidencing periodic maintenance practices of shearing for Douglas Fir and pine species, weed and brush control, and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigation.
25. Church: A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
 26. City: The City of Depoe Bay.
 27. Clear Vision Area: A triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, the space being defined by a line across the corner, the ends of which are on the street or alley right-of-way lines at an equal and specified distance from the corner and containing no planting, walls, structures or temporary or permanent obstruction exceeding three and one-half (3 ½) feet in height above the curb level. *(renamed 4/6/04-ORD 256)*
 28. Clearing: The removal of vegetation from a site wherein the root system of the vegetation is disturbed. “Clearing” for the purpose of this Ordinance, does not include gardening activities. *(added 4/6/04-ORD 256)*
 29. Clinic: A building utilized by persons licensed by the State of Oregon to treat or analyze medical or surgical needs of humans on an out-patient basis.
 30. Coastal High Hazard Area: The area subject to high velocity water, including but not limited to storm surge or tsunamis. The area is designated on the FIRM as Zone V1-V30, VE or V. *(as amended 4/6/04-ORD 256, see also Sec 3.370)*
 31. Commercial Fishing Gear: Crab traps, fish traps, fishing lures; ropes or lines pertaining to crab or fish traps, including buoys and floats; plastic totes or tubs used for storage of line and longline gear; rigging, which includes poles, extensions, stays and/or booms, or mast gear from salmon or tuna fishing; and spools and winches (girdies, power blocks and occasional gill net reel) excluding drag nets or gear. *(added 11/2/04-ORD 268)*
 32. Commission: City of Depoe Bay Planning Commission.
 33. Common Property: A lot(s), parcel or tract together with the improvements thereon, the use and enjoyment of which are shared by owners and occupants of individual building sites in a Planned Development or standard subdivision. *(as amended 4/6/04-ORD 256)*
 34. Community Center: A facility owned and operated by a governmental agency or a non-profit community organization, provided that the primary purpose of the facility is for

recreation, social welfare, community improvement, or public assembly, and further provided that no permanent commercial eating or drinking facilities shall be operated on the premises.

35. Comprehensive Plan: The adopted comprehensive plan for the city of Depoe Bay as defined in the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
36. Condominiums: A form of ownership where buildings are subdivided into individual units such that each owner only owns his/her own unit and the air space occupied by it. The portion of land upon which the building is situated, the surrounding grounds, party walls, corridors, services other than those within independent units, such as electrical, water gas, sewers, etc., become joint responsibilities of all the owners. Condominiums include any properties subject to the Oregon Condominiums Act, the applicable statute of the latest ORS. *(added 4/6/87-ORD 130, amended 4/6/04-ORD 256, 5/4/10-ORD 287)*
37. Council: The City Council of Depoe Bay.
38. County: The County of Lincoln, Oregon.
39. 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 the applicable statute of the latest ORS. The providers' children are included for the purposes of this definition. *(added-10/7/91-ORD 172, amended 5/4/10-ORD 287)*
40. 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. *(added 10/7/91-ORD 172)*
41. 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. *(added 10/7/91-ORD 172)*
42. Density: The number of dwelling units within a specified land area.
43. Detrimental: Causing obvious and excessive harm or injury. *(added 4/6/04-ORD 256)*
44. Development: "Development" means any man-made change or improvement involving buildings, structures, mining, dredging, filling, grading, paving, excavation or drilling.
45. Development (Flood Hazard Zone): Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations. *(added 4/6/04-ORD 256, see also Sec 3.370)*
46. Drainage Ways: The streams, channels, springs, lakes, ponds, reservoirs, ponding areas, and wetlands indicated in the LWI and the Depoe Bay Storm Water Master Plan maps of existing facilities. *(as added 4/6/04-ORD 256, amended 3/21/07-ORD 278)*
47. Dwelling: A building or portion thereof which is owned or occupied in whole or in part as a residence by one or more families but excluding tourist accommodations. *(as amended 12/16/96-ORD 234, 4/6/04-ORD 256)*

48. Dwelling, Single-Family: A detached dwelling designed or used exclusively for the occupancy of one family and having housekeeping facilities for one family.
49. Dwelling, Two-Family (Duplex): A building consisting of two separate dwelling units with a common roof, a common wall or a common foundation designed and used exclusively for the occupancy of two families living independently of each other, and having housekeeping facilities for each family. *(as amended 4/6/04-ORD 256)*
50. Dwelling, Multi-Family: A building consisting of three (3) or more dwelling units with a common roof and common foundation designed and used exclusively for the occupancy of three or more families living independently of each other and having housekeeping facilities for each family.
51. Easement: A non-possessory interest in the real property of another granted for a specific purpose. *(as amended 4/6/04-ORD 256)*
52. Erosion: The wearing away of the ground surface as a result of the movement of wind and water. *(added 4/6/04-ORD 256)*
53. Excavation: The mechanical removal of earth material. *(added 4/6/04-ORD 256)*
- ** Factory Built Dwelling: *(amended 10/7/91-ORD 172, Deleted 2/16/93- ORD 187)*
54. Family: An individual or two (2) or more persons related by blood, marriage, adoption, or legal guardianship, plus all foster children, living together as one housekeeping unit using one kitchen, and providing meals and/or lodging to not more than two (2) additional persons; or a group of unrelated persons, living together as one housekeeping unit using one kitchen.
55. Family Day Care Provider: A day care provider who regularly provides day care in the provider's home in the family living quarters. *(added 10/7/91-ORD 172)*
56. Fence: Consists of either a continuous fence, wall, evergreen planting, or combination thereof, constructed or planted so as to effectively act as a screening of view or for security. *(as amended 4/6/04-ORD 256)*
57. Fill: The deposit of earth material placed by artificial means. *(added 4/6/04-ORD 256)*
58. Fish Habitat: Wetland and riparian areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply and migration. *(added 4/6/04-ORD 256)*
59. 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." *(as amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
60. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from: *(added 4/6/04-ORD 256, see also Sec 3.370)*
 - a. The overflow in inland or tidal waters and/or
 - b. The unusual and rapid accumulation of runoff of surface waters from any source.
61. Flood Fringe: The area of the flood plain lying outside the floodway.

62. Flood Hazard Area; Special: Areas in Depoe Bay identified by the Federal Insurance administration in "The "The Flood Insurance Study for Depoe Bay, dated July, 1978," with accompanying FIRM as amended and all other flood prone areas. *(renamed 4/6/04-ORD 256)*
63. Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. *(amended 4/6/04-ORD 256, see also Sec 3.370)*
64. Flood Insurance Study: 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. *(added 4/6/04-ORD 256, see also Sec 3.370)*
65. Flood Plain: The area shown on Zoning Maps for the city as being subject to inundation by delineation of a base flood as determined by the U.S. Army Corps of Engineers or other means, or in absence of such delineation, subject to inundation by the highest flood of record in the area as determined by the city.
66. Flood Plain Cross Section: A profile of the ground surface perpendicular to the center line of a stream or tidal estuary.
67. Flood Plain Development: Any man-made change or improvement involving buildings, structures, mining, dredging, filling, grading, paving, excavation or drilling that alters in any way the flood plain.
68. Flooding Analysis; Step-Backwater: An engineering analysis developed by the Army Corps of Engineers to evaluate hydrostatic and hydrodynamic forces within the flood plain. *(renamed 4/6/04-ORD 256)*
69. Flooding; Shallow: Areas where the base flood depth is between one to three feet, a clearly defined channel does not exist and the path of flooding is not determinable. Areas of shallow flooding are identified on the FIRM as A-O zones. *(renamed 4/6/04-ORD 256)*
70. Floodway: 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.*(amended 4/6/04-ORD 256, see also Sec 3.370)*
71. Floodway Fringe: That portion of the flood plain lying outside of the designated floodway.
72. Forest Products: Trees or any wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in the applicable statute of the latest ORS. *(as amended 4/6/04-ORD 256, 5/4/10-ORD 287)*
73. Forest Products; Primary Uses Of: The use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.
74. Forest Use: The use of land for the primary purpose of growing and harvesting of forest tree species.

75. Fractional Ownership: Real property where multiple (two or more) people or entities share the ownership and typically gives the owners certain privileges, such as a number of days or weeks when they can use the property. In residential zones, a fractional ownership shall not be operated as a Tourist Accommodation or for Transient or Short-Term Occupancy, i.e. if the periods of occupancy by any person are less than 30 consecutive days and the arrangement provides consideration to the operator. *(added 5/4/10-ORD 287)*
76. Grade, Finished: The finished surface of the ground at the building perimeter once all grade alteration is completed. *(added 12/22/92-ORD 185)*
77. Grade (Ground Level): The average elevation of the finished ground elevation at the centers of all walls of a building.
78. Grading: The process of changing the topography of the ground surface. *(added 4/6/04-ORD 256)*
79. Habitable Floor: Any floor usable for working, sleeping, eating, cooking, recreation, or other living purpose.
80. Harbor Commission: The Harbor Commission of the City of Depoe Bay.
81. Hardship: A situation or circumstance which creates or causes unusually hard circumstances of conditions for the applicant or property owner and which do not arise from the applicant's or property owner's own conduct. *(added 4/6/04-ORD 256)*
82. High Water Line or Mark: The high water elevation as shown on the County Assessor's records, or as determined by the County Surveyor, based upon the line where normal high water elevation results in a pronounced change in vegetation characteristics.
83. Home Occupation: The regular or continuing use of a dwelling for business purposes, which business use is incidental and subordinate to the residential use of the dwelling and which is approved under Article 6 of this Ordinance. *(as amended 12/16/96-ORD 236, 4/6/04-ORD 256)*
84. Home Occupation-Transparent: The regular or continuing use of a dwelling for business purposes, which business use is customarily incidental and subordinate to the residential use of the dwelling, involving the sale of goods and/or services, or creation of handicrafts, artwork, documents, or any other form of work product, provided that the sale, service or process of creation of product meets the following standards: *(added 12/16/96-ORD 236, renamed 4/6/04-ORD 256)*
- i. No business related vehicular or pedestrian traffic, including customers or delivery persons (other than US mails or package delivery services).
 - ii. No on-premise sign identifying the business and no off-premise sign identifying the street address of the business.
 - iii. No noise, lights, dust, smoke, odors, electromagnetic frequencies generated which interfere with surrounding residential or commercial uses, i.e., telephone, television, radio, computer.
 - iv. No commercial vehicles, i.e., trucks, vans, or trailers parked on the premises or within two blocks on the street which identifies the business.

- v. No storage or use of any materials which present an increased risk of hazard or danger to the dwelling, the premises or surrounding structures as compared to domestic use products found within dwellings, i.e., explosion, pollution generation, fire.
- vi. A city business license is obtained and maintained in good standing for the location.
85. Homeowner's Association: An incorporated organization operating under a recorded land agreement through which (1) each lot owner in a Planned Development or other described land area is automatically a member, and (2) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities such as maintaining a common property. *(as amended 4/6/04-ORD 256)*
86. Horticulture: The cultivation of plants, garden crops, trees and/or nursery stock.
87. Hospital: An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.
- ** Hotel: *(deleted 12/16/96-ORD 234, see "Tourist Accommodation")*
88. Junk Yard: Any property utilized for breaking up, dismantling, sorting, storing, distributing, buying, or selling of any scrap waste material, junk or used equipment or machinery of any nature.
89. Kennel: A lot or building which provides for the keeping of four or more dogs, cats, or animals at least four months of age where such animals are kept commercially for board, propagation, training or sale.
90. Livestock: Domestic animals and fowl of types customarily raised or kept on farms for profit or other purposes. This definition does not include household pets such as dogs or cats. For purposes of this ordinance, the definition of farm and farm use shall be as stated in the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
91. Loading Space: An off-street space or berth on the same lot or parcel with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise or materials, and which space or berth abuts upon a street, alley or other appropriate means of access.
- ** Lodge: *(deleted 4/6/04-ORD 256)*
92. Lot: A parcel of land of at least sufficient size to meet minimum zoning requirements for use and area, and to provide such yards and other open spaces as are herein required. Lots shall have frontage on a public street or easement approved by the city. *(as amended 4/6/04-ORD 256)*
93. 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. *(as amended 10/7/91-ORD 172)*
94. Lot Corner: A lot abutting on two or more streets other than an alley, at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines

drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

95. Lot Depth: the average horizontal distance between the front lot line and the rear lot line.
96. Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street other than an alley shall be considered frontage, and yards shall be provided as indicated under yards in this section.
97. Lot, Interior: A lot other than a corner lot with only one frontage on a street.
98. Lot Line: The property line bounding a lot.
99. Lot Line, Front: The property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley, or, in a case where the lot does not front directly upon a public street, that lot line toward which most houses in the immediate area face.
100. Lot Line, Rear: The lot line or lines opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.
101. Lot Line, Side: Any lot line or lines not a front or rear lot line. An interior side lot line is a lot line common to more than one lot or to the lot and an alley; an exterior side lot line is not a lot line common to the lot and a street other than an alley.
102. Lot of Record: Any unit of land created as follows:
 - a. A lot in a platted subdivision, or
 - b. A lot created by minor or major land partitioning, or
 - c. A unit of land for which a survey was filed and which conformed to all applicable regulations at the time of filing, or
 - d. A unit of land described by a deed, or by metes and bounds, provided, however, that contiguous units of land so created and under the same ownership and not conforming to a minimum parcel size required by the current zoning shall be considered one (1) lot of record.
103. Lot of Record, Non-conforming: A parcel of land which lawfully existed as a lot in compliance with all applicable ordinances and laws at the time of creation, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the lot dimension requirements for the zoning district in which it is located.
104. Lot, Through: An interior lot abutting on streets, other than an alley, or both of the opposite, exterior lot lines.
105. Lot Width: The average horizontal distance between the side lot lines, measured perpendicular to a line connecting the mid points of the front and rear lot lines. *(as amended 4/6/04-ORD 256)*
106. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the 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. *(added 4/6/04-ORD 256, see also Sec 3.370)*

107. 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 on-going commercial or industrial enterprise. *(added 10/7/91-ORD 172)*
108. Manufactured Dwelling: "Manufactured Dwelling" shall mean manufactured dwellings and mobile homes, as defined by the applicable statute of the latest ORS: *(as amended 12/2/91-ORD 173, 4/6/04-ORD 256, 5/4/10-ORD 287)*
- a. "Manufactured Dwelling" means:
- 1) Residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962.
 - 2) Mobile home, a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon Mobile Home Law in effect at the time of construction.
 - 3) *(deleted see definition 109. 5/4/10-ORD 287)*
- b. "Manufactured Dwelling" does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer or qualifying as a "recreational vehicle" as defined by state law, ORS 446.003.
109. Manufactured Home: A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with the federal Manufactured Housing Construction and Safety Standards Regulations in effect at the time of construction. *(separated from "Manufactured Dwelling" 5/4/10-ORD 287)*
110. Manufactured Home (Flood Hazard Zone): 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 connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. *(added 4/6/04-ORD 256, see also Sec. 3.370)*
111. Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. *(added 4/6/04-ORD 256, see also Sec. 3.370)*

112. Mean Sea Level (M.S.L.): The average height of the surface of the sea for all stages of the tide.
113. Mine (Quarry): Premises from which any rock, sand, gravel, stone, topsoil, clay, mud, peat, or other mineral is removed or excavated as an industrial or commercial operation, and exclusive of excavating and grading for streets and roads and the process of grading a lot preparatory to the construction of a building for which a permit has been issued by a public agency.
114. Mobile Home/Manufactured Dwelling Park: A facility where four 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. 'Mobile home/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 or partition was approved by the city. *(as amended 10/7/91-ORD 172, 12/2/91-ORD 173)*
115. Mobile Vending Stand: A structure, cart, trailer, or stand which is movable from place to place, and is used for the purpose of selling foods, soft drinks, and other non-alcoholic beverages to the public directly or indirectly and is equipped to dispense food or beverage and/or prepare the food or beverage for consumption. A mobile vending stand does not contain space for customers to enter the stand to purchase or consume products. *(added 7/7/82-ORD's 92 & 93)*
- ** Motel: *(deleted 12/16/96-ORD 234, see "Tourist Accommodation")*
116. Native Plants, Native Vegetation: Plant species that grow and propagate themselves in coastal shoreland areas along the central Oregon coast through natural processes, are adapted to the weather, soils and hydrology of the area, and which have evolved in the area or been introduced to the area by natural causes. These plant species are to be distinguished from plant species which have been deliberately or accidentally imported or introduced from other areas by humans or human activities. *(added 4/6/04-ORD 256)*
117. New Construction: Structures with respect to which the "start of construction" has commenced. *(added 4/6/04-ORD 256, see also Sec 3.370)*
118. Non-conforming Structure: Structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws, but which because of the application of a subsequent zoning ordinance no longer conforms to the setback, height, maximum lot coverage or size, or other building development requirements of this Ordinance. *(as amended 4/6/04-ORD 256)*
119. Non-conforming Use: Use of structure or land, or structure and land in combination which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of subsequent zoning ordinance, no longer conforms to the use requirements for the zoning district in which it is located.

120. Outdoor Recreation Activity: Includes fishing, camping, swimming, clam digging, hunting, boating, hiking, horseback riding, and similar uses which require few, if any, related structural improvements.
121. Outdoor Recreation Development: Includes those private structural or other improvements customarily found in connection with outdoor recreation activities. Such improvements may include picnic or campground improvements, riding stables, or organization recreation facilities. Such development excludes commercial amusement uses such as miniature golf course, go-cart tracks, and similar uses.
122. Owner: The owner of record of real property as shown on the tax rolls of the county, or a person who is purchasing a parcel of property under contract.
123. Parcel: A unit of land that is created by division of land. *(as amended 4/6/04-ORD 256)*
124. Park: A tract of land set apart and devoted for the purposes of pleasure, recreation and open space for the general public. *(as amended 4/6/04-ORD 256)*
125. Parking Area: A designated area containing four (4) or more parking spaces that has access and provides maneuvering area external of the road right-of-way.
126. Parking Space: An off-street enclosed or unenclosed surfaced area meeting minimum ordinance requirements exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, connected with a street or alley which affords access for automobiles. *(as amended 4/6/04-ORD 256)*
127. Partition: Either an act of partitioning land or an area or tract of land partitioned as defined in the applicable statute of the latest ORS. *(as amended 5/4/10-ORD 287)*
128. Partition Land: To divide an area or tract of land into two or three parcels within a calendar year, but does not include: *(as amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
- 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 as 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 the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
129. Performance Agreement: A form of security (ie; bond, letter of credit, real property security instrument, security interest in personal property) acceptable to the city to insure completion of the conditions of construction, as required under this Ordinance. *(as amended 4/6/04-ORD 256)*
130. Permit: A written and approved authorization for any Department. *(added 4/6/04-ORD 256)*
131. Person: A natural person, his heirs, executors, administrators; or assigns, or a form of business entity recognized under state law, its heirs or successors or assigns; or the agent

of any of the aforesaid, or any political subdivisions, agency, board or bureau of the state.
(as amended 4/6/04-ORD 256)

132. Pier: A fixed moorage facility constructed outward from the shoreline.
133. Planned Development (PD): A development in which the applicable subdivision and zoning restrictions apply to the development as a whole rather than to each individual lot, and which is approved under Section 3.410 of this Ordinance. (as amended 4/6/04-ORD 256)
134. Planning Commission: The Planning Commission of the City of Depoe Bay.
135. Plat: A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition or subdivision. (as amended 10/7/91-ORD 172, 4/6/04-ORD 256)
136. Pond: A small body of intermittent or perennial standing water that is a persistent feature of the landscape. (added 4/6/04-ORD 256)
137. Pre-fabricated or Modular Dwelling: A building or sub-assembly which has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site and constructed in accordance with the State Building Specialty Codes as defined by state statute, but does not include a manufactured dwelling, trailer, or recreational vehicle. (added 2/16/93-ORD 187)
138. Principal Use: The intended and primary use of a structure or parcel of land.
139. Public Utility: Any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages, or controls all or any part of any plant or equipment for the conveyance of telephone messages with or without wires, for the transportation as common carriers or for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to the public.
140. Recreation Vehicle (RV): A temporary shelter for travel and recreation purposes, which is licensed as a motor home, camper or travel trailer. (amended 4/6/04-ORD 256, see Sec 3.370)
141. Recreational Vehicle Park: A development designed primarily for transient service in which travel trailers, pickup campers, tent trailers, and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating.
142. Replat: A map of the reconfiguration of lots and easements of a recorded subdivision or partition or partition plat and other writing containing all the descriptions, locations, specifications, dedications and provisions and information concerning a recorded subdivision. (added 4/6/04-ORD 256)
143. Reserve Strip: A strip of land one foot in width abutting a road for the purpose of controlling access.
144. Residential Facility: Facility licensed by or under the authority of the Department of Human Resources under the applicable statute of the latest ORS. (added 9/17/90-ORD 154, amended 4/6/04-ORD 256, 5/4/10-ORD 287)

145. 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 caregivers. *(as amended 10/7/91-ORD 172)*
146. Resort: Any area of land or water used for open-land commercial or private recreation where tourist accommodation and related tourist services are provided in conjunction with such recreational use. *(as amended 12/16/96-ORD 234)*
147. Retail Services: Personal or business service establishments such as a barber or beauty shop, laundry or dry cleaning establishment, tailor shop or similar establishment. *(added 6/1/92-ORD 178)*
148. Retaining Wall: A wall constructed for the purpose of holding back soil. The height of such a wall is measured from the base of the footing to the top of the wall. *(added 4/6/04-ORD 256)*
149. Right-of-Way: A strip of land reserved to allow access through or to a parcel of land for purposes such as roads, paths, drainage and utilities. *(as amended 4/6/04-ORD 256)*
150. Riparian Area: The area adjacent to a river, lake or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. *(added 4/6/04-ORD 256)*
151. Riparian Corridor: Includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. *(added 4/6/04-ORD 256)*
152. Riparian Corridor Boundary: An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation.
- Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50' inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25' inland (or upland) from the upland edge of the wetland or pond. *(added 4/6/04-ORD 256, amended 3/21/07-ORD 278)*
153. Riparian Vegetation Zone (Ocean and Estuary): The area between the point of mean higher high water and fifty (50) feet landward measured on the horizontal. *(added 4/6/04-ORD 256)*
154. Road (Street): A public or private way created to provide vehicular access to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide access to such land in conjunction with its use for forestry, mining, or agricultural purposes and excluding pedestrian pathways less than eight feet in width. *(as amended 4/6/04-ORD 256)*
- a. Arterial or Major Highway: A street designed to carry traffic from one community to another, to carry traffic to and from major traffic generators and to carry through traffic.
 - b. Collector or Secondary Street: A street designed to carry traffic between minor streets and the arterial system, to function as primary traffic carriers within a neighborhood, to carry traffic to local traffic generators, and in commercial and industrial areas, provide access to commercial and industrial properties.
 - c. Cul-de-Sac or Dead End Street: A minor street with only one outlet which provides a vehicular turn-around.

- d. Forest Road: A road being used or maintained in conjunction with forest use.
 - e. Minor Streets: A street designed to provide access to abutting residential property with only incidental service to through traffic.
 - f. Private Road: A road created by easement.
 - g. Public Road: A road dedicated for public use.
 - h. Rural Road: A road that provides general access to a large area serving rural, residential, farming, forestry and recreational needs.
155. Sanitary Landfill: the disposal of refuse by a method of compaction approved by the Department of Environmental Quality and covering at the end of each day's operation with earth to prevent hazards to the public health and safety and to prevent the creation of nuisances.
156. School: Any institution for learning, whether public or private, meeting State of Oregon accreditation standards.
157. Setback: Is the horizontal distance measured perpendicularly from the lot line to the nearest point of any structure on the lot or parcel.
158. Sign: An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention a product, place, activity, person, institution, or business. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.
159. Skirt: A durable all-weather material having a finished exterior surface surrounding a mobile home and effectively screening the under-carriage from view.
160. Start of Construction: The date the building permit was issued, provided that actual start of construction or substantial improvement, repair, reconstruction, placement or other improvement occurs within 180 days of the permit date. "Start of Construction" requires at least the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, or the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Start of Construction" does not include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; excavation for basement, footing, piers, or foundation or the erection of temporary forms; or 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. *(added 4/6/04-ORD 256, see also Sec 3.370)*
161. Story: That portion of a building including between a floor and the ceiling next above it, exclusive of a basement.
162. Stream: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels. *(added 4/6/04-ORD 256)*
163. Street: See 'Road.'
164. Street Vendor: Means any person who travels from street to street on public rights-of-way, streets, or other public property with food, beverages, flowers, balloons, or other

similar items and offers them for sale. *(added 7/7/82-ORD 93)*

165. Structural Alteration: Any change to the supporting members of a building including foundations, bearing walls, or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.
166. Structure: Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.
167. Structure (Flood Hazard Zone): A walled and roofed building (including a gas or liquid storage tank) that is above ground. *(added 4/6/04-ORD 256, see also Sec 3.370)*
168. Subdivide Land: To divide an area or tract of land into four or more lots within a calendar year when such an area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of a year.
169. Subdivision: an area or tract of land divided into four or more lots within a calendar year.
170. Substantial Damage (Flood Hazard Zone): Damage sustained by a structure from any cause as a result of which the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the fair market value of the structure before the damage occurred. *(added 4/6/04-ORD 256, see also Sec 3.370)*
171. Substantial Improvement: Any repair, reconstruction, or improvement of a structure which exceeds fifty (50%) percent of the assessed value of the structure.
172. Substantial Improvement (Flood Hazard Zone): Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed value of the structure as determined by a licensed appraiser, either:
(added 4/6/04-ORD 256, see also Sec 3.370)
 - a. before the improvement or repair is started, or
 - b. 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 improvement 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 State Inventory of Historic Places.
173. Tentative Plan: A preliminary diagram showing the design of a proposed partition or subdivision, together with any writing and information that may be required. *(as amended 4/6/04-ORD 256)*
174. Time-Share Interest: Any interest, direct or indirect, in a time-share project. For the purposes of determining whether property, or any part thereof, has been divided into

eleven (11) or more undivided interests, and shall thereby constitute a time-share project, there shall be included in the determination of the number of such interests outstanding every person having any form of right, contractual or otherwise, pursuant to which the holder shall have the right to use or possession such portion of such real property or of any improvement thereon, including any interest in any lot, parcel, condominium or leasehold, whether or not such interest shall constitute an undivided interest in real property or whether the same shall be styled a membership, leasehold or other contractual agreement whereby a right to possession is created. For the purposes hereof, an interest held in common by more than one person or entity shall not be deemed to constitute more than one separate interest unless the holders thereof shall have the right, directly or indirectly, whether by written or oral agreement, to use, possess or enjoy such interest at separate times, or by one of the common owners of such interests. Any interest held solely by a husband and wife as tenants by the entirety, or which is held as joint tenants with right of survivorship solely by brothers and sisters or solely by husband and wife and their children shall be presumed to constitute but a single interest; interests held in common by other persons shall be presumed to constitute separate interests, which presumption may be rebutted by evidence that the holders of such interests have and enjoy a common right of possession, and do not have the right to possession or use of the premises at separate times or to the exclusion of other holders of such interest. *(added 4/6/87-ORD 130)*

175. Time-Share Project: Any real property and/or improvements upon real property which are subject to any plan or arrangement such that the right to the use and possession of one or more dwelling units thereof shall have been divided into eleven (11) or more interests whereby the holder of such an interest shall have a right to the possession of all or part of one part of the premises subject to such interest, to the exclusion of persons holding other interests therein during any period, whether annually recurring or not. "Time-share projects" shall include any written or oral, whereby eleven (11) or more common owners shall divide the right to the use or possession of said premises such that each such owner shall have a period during which such owner shall have the right to the use of such premises to the exclusion of others, whether or not such right shall be expressly designated as a separate ownership interest, and shall also include all such real property and improvements or interests therein as any part of which may be owned or possessed by a single entity, such as a corporation or partnership, if such entity shall hold title in trust or otherwise subject to an agreement or arrangement whereby eleven (11) or more possessory interests are created. "Time-share project" shall not include a tenancy in common, as such a tenancy exists at common law, if unmodified by any restrictive covenants or other agreement whereby such common tenants have or may claim or exercise the right to exclusive use, occupancy or possession of the premise to the exclusion of other tenants as, for instance, where such tenants in common may hold property for business or investment purposes. *(added 4/6/87-ORD 130)*
176. Time-Share Project, Pre-Existing: A time-share project, the outstanding interests in which have already been created, or with respect to which a notice of intent (such as currently required by the applicable statute of the latest ORS) as required by law or by administrative regulations disclosing the nature and number of the interest to be created therein has been filed with the Real Estate Division of the State of Oregon on or prior to the effective date of the adoption of this ordinance. Such a "pre-existing time-share project" shall not authorize the creation of additional interests or the subdivision of any existing interests or the expansion of such project beyond that which existed or was so disclosed at or prior to the effective date of the adoption of this ordinance, except and

unless the same shall conform and comply with all applicable requirements of this ordinance and any other applicable ordinances, regulations or statutes. *(added 4/6/87-ORD 130, amended 5/4/10-ORD 287)*

177. Tourist Accommodation: A structure or building, or part of a structure or building, occupied or designed for occupancy: *(added 12/16/96-ORD 234, amended 4/6/04-ORD 256)*
1. By transients for lodging or sleeping, regardless of whether or not non-lodging goods, services or meals are included as a part of the occupancy, and for which the transient lodging within the structure:
 - a. is for the direct or indirect compensation of the owner, lessee or operator of the structure; or
 - b. is intended to result in the pecuniary benefit to the owner, lessee or operator of the structure; or
 - c. requires the owner, lessee or operator of the structure to either obtain a city business license or collect transient room taxes under city ordinances.

“Tourist Accommodation” shall include the use and terms “bed and breakfast establishment”, “hotel”, “motel”, “inn”, “vacation rental”, or any other form of transient or short-term occupancy of a structure.

178. Transient or Short-Term Occupancy: Any person who occupies or is entitled to occupy a structure or building, or portion thereof, for a period of less than thirty (30) calendar days, counting portions of days as full days, and the person gives direct or indirect compensation to the owner, lessee or operator of the structure for the occupancy or for which the occupancy is intended to assist in producing or results in the pecuniary benefit to the owner, lessee or operator of the structure. “Consideration” means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property. *(added 12/16/96-ORD 234)*

179. Transient Occupancy: The use of a structure or building, or part of a structure or building, by a transient. “Transient Occupancy Business” means the carrying on, operation, or suffering the use of a structure or building, by a transient for lodging or sleeping purposes, regardless of whether or not non-lodging goods, services or meals are included as a part of the occupancy, and for which the transient lodging within the structure: *(added 12/16/96-ORD 234)*
- a. is for the direct or indirect compensation of the owner, lessee or operator of the structure; or
 - b. is intended to result in the pecuniary benefit to the owner, lessee or operator of the structure; or
 - c. requires the owner, lessee or operator of the structure to either obtain a city business license or collect transient room taxes under city ordinances.

180. Unit of Ownership: An area or tract of land described by a deed or by metes and bounds as a single entity.

181. Use: the purpose for which a structure is designed, arranged or intended, or for which land is maintained or occupied.

182. Vacation Rental Dwelling: A building or portion thereof which is owned or occupied in

whole or in part as a primary or secondary residence and is used by transients for lodging or sleeping, and for which the transient lodging within the structure: *(added 1/6/03 –ORD 261)*

- a. is for the direct or indirect compensation of the owner, lessee or operator of the structure; or
 - b. is intended to result in the pecuniary benefit to owner, lessee, or operator of the structure; or
 - c. requires the owner, lessee, or operator of the structure to either obtain a city business license or collect transient room taxes under city ordinances.
183. Vegetation: Plants of all types, including grasses, ground cover, flowers, bushes, shrubs, trees. *(added 4/6/04-ORD 256)*
184. Water Area: The area between the banks of a lake, pond, river, perennial or fish bearing intermittent stream, excluding man-made farm ponds. *(added 4/6/04-ORD 256)*
185. Water-Dependent: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.
186. Water-Related: Uses which are not directly dependent upon access to a water body but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.
187. Wetland: An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. *(as amended 9/17/90-ORD 154, 4/6/04-ORD 256)*
188. Yard: An open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this ordinance.
- a. Front: A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley, shall be considered a front yard.
 - b. Rear: A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line, or the mean high water line when applicable, to the nearest part of the main building.
 - c. Side: 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 main building.
 - d. Street Side: 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 a building.

ARTICLE 2. BASIC PROVISIONS

Section 2.010. Compliance With Ordinance Provisions.

1. A lot may be used and a structure or part of a structure may be constructed, altered, occupied, or used only as this ordinance permits.
2. No lot area, yard, off-street parking or loading area, or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance.
3. No lot area, yard, off-street parking or loading area, or other required open space for one use shall be used as the required yard, off-street parking or loading area, or other required open space for another use.

Section 2.020. Classification Of Zones. (as amended 8/19/80-ORD 71) For the purposes of this ordinance the following are hereby established in the city:

<u>Residential Zones</u>	<u>Abbreviated Designation</u>	<u>Map Designation</u>
Residential Zone R-1	R-1	R-1
Residential Zone R-2	R-2	R-2
Residential Zone R-3	R-3	R-3
Residential Zone R-4	R-4	R-4
Residential Zone R-5	R-5	R-5
<u>Commercial Zones</u>		
Retail commercial Zone C-1	C-1	C-1
<u>Industrial Zones</u>		
Light Industrial Zone L-1	L-1	L-1
<u>Marine Zones</u>		
Marine Commercial Zone M-C	M-C	M-C
Planned Marine & Recreation Zone M-P	M-P	M-P
Marine Waterway Zone M-W	M-W	M-W
<u>Natural Resource Zones</u>		
Timber Conservation Zone T-C	T-C	T-C

Planned Development Zones

Planned Development Zone P-D

P-D

P-D

Section 2.030. Location of Zones. *(as amended 8/19/80-ORD 71)* The boundaries for the zones listed in this ordinance are marked as such with the area or areas of every zone indicated on maps entitled "Exhibit **B**, Depoe Bay, Oregon, Zoning," the original of which is on file in the office of the City Recorder, in a book or place kept for that purpose and open to public inspection and counterparts of which the map is on file in the city hall and bears the same date as the passage of this ordinance and the number of this ordinance and said map having endorsed thereon the signatures of the Mayor and the City Recorder, and said map and any other information pertaining thereto, such as symbols, indications, notations, references, and other information which appear on said map are hereby incorporated into and made a part of this ordinance as much as if said matters and information set forth on and by said maps were fully described herein.

Zone boundaries, zone modifications, additions, reclassifications may be made at subsequent times and shall be made by amendment to this ordinance, in accordance with the provisions of the ordinance.

Section 2.040. Zoning Maps. Maps of the zones or amendments to the location of zones adopted pursuant to Section 2.030 of this ordinance shall be prepared by the authority of the City of Depoe Bay Planning Commission or by a modification by the Council of the City of Depoe Bay to the map amendment so prepared. The map or amendment shall be dated with the effective date of the ordinance that adopts the amendment, together with the signatures of the Mayor, City Recorder, and the ordinance number of the ordinance which made the modification. A certified print of the said original map and any subsequent map shall be maintained without change in the office of the City Recorder in the book or place kept for that purpose; provided, however, that when an ordinance amends a previous ordinance so as to change the area of the zone on a map previously filed, the original map may be noted in the margin to show that a change was made, together with the date of change and the map number or designation and amending ordinance number.

Section 2.050. Zone Boundaries. Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way or such lines extended, or other similar lines.

ARTICLE 3. USE ZONES

Section 3.010. Residential Zone R-1. (as amended 8/19/80-ORD 71, 10/7/91-ORD 172, 12/2/91-ORD 173, 2/16/93-ORD 187, 12/16/96-ORD 236, 4/6/04-ORD 256, 11/2/04-ORD 268, 5/4/10-ORD 287) In an R-1 zone, the following regulations shall apply:

1. Uses Permitted Outright. In an R-1 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, and 13 where applicable.
 - a. A single family dwelling built on the site. (amended-ORD 187)
 - b. Manufactured home (added 5/4/10-ORD 287)
 - c. Pre-fabricated or modular dwelling. (amended 12/2/91-ORD 173, 2/16/93-ORD 187)
 - d. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: (amended 12/2/91-ORD 173)
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
 - e. Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further that no commercial structure shall be constructed or maintained on the premises.
 - f. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. (amended 12/2/91-ORD 173, 2/16/93-ORD 187)
 - g. Residential homes. (added 10/7/91-ORD 172)
 - h. Family day care provider. (added 10/7/91-ORD 172)
 - i. Transparent Occupation. (added 12/16/96-ORD 236)
 - j. Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous and cause no odor off-site. (added 11/2/04-ORD 268)
2. Conditional Uses Permitted. In an R-1 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13 where applicable:
 - a. Cemetery.
 - b. Church.
 - c. Community center.

- d. Day nursery, nursery school, kindergarten or similar facility.
 - e. Governmental structure or use of land.
 - f. Home occupation.
 - g. Golf course or country club, but excluding golf driving range, miniature golf course, or similar facility.
 - h. Private non-commercial recreation club such as tennis, swimming, or archery club, but excluding commercial amusement or recreation enterprises.
 - i. Public park, playground, swimming pool.
 - j. Public school or private school offering curricula similar to public school.
 - k. Public or private utility facility.
 - l. Radio or television transmitter or tower.
 - m. Solid waste disposal transfer station.
3. Standards. Except as provided in Articles 4, 5, and 6, in an R-1 zone, the following standards shall apply:
- a. Lot Size and Dimension. The minimum lot size and dimension in an R-1 zone shall be as follows:
 - 1) The minimum lot area shall be 5,000 square feet.
 - 2) The minimum lot width at the front lot line shall be fifty (50) feet for an interior lot and fifty five (55) feet for a corner lot, except flag lots. The “staff” of a flag lot shall have a minimum width and frontage of not less than twenty five (25) feet. *(amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
 - 3) The minimum lot depth shall be 80 feet.
 - 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. *(added 10/7/91-ORD 172)*
 - b. Yards. The minimum yard requirements in the R-1 zone shall be as follows:
 - 1) The front yard shall be a minimum of 20 feet.
 - 2) Each side yard shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever is the greater.

- 3) The street side yard shall be a minimum of twenty (20) feet except this may be reduced by one (1) foot for each foot the average lot width is less than sixty (60) feet, however, no street side yard shall be less than ten (10) feet. (See "Lot Width" definition in Section 1.030 for method of calculation.) *(amended 4/6/04-ORD 256)*
 - 4) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 5) No structure shall be located closer than 60 feet from the centerline of any state highway.
- c. Building Height. No building in the R-1 zone shall exceed a height of 30 feet.

Section 3.020. Residential Zone R-2. *(as amended 8/19/80-ORD 71, 10/7/91-ORD 172, 12/2/91-ORD 173, 2/16/93-ORD 187, 12/16/96-ORD 236, 4/6/04-ORD 256, 11/2/04-ORD 268, 5/4/10-ORD 287)* In an R-2 zone the following regulations shall apply:

1. Uses Permitted Outright. In an R-2 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 where applicable:

- a. A single family dwelling built on the site. *(as amended 2/16/93-ORD 187)*
- b. Manufactured home. *(as amended 12/2/91-ORD 173, replaced 5/4/10-ORD 287)*
- c. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: *(as amended 12/2/91-ORD 173)*
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
- d. Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further than no commercial structure shall be constructed or maintained on the premises.
- e. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. *(as amended 12/2/91-ORD 173, 2/16/93-ORD 187)*
- f. Two-family dwelling.
- g. Pre-fabricated or modular dwelling. *(as amended 2/16/93-ORD 187)*
- h. Residential homes. *(added 10/7/91-ORD 172)*
- i. Family day care provider. *(added 10/7/91-ORD 172)*
- j. Transparent Occupation. *(added 12/16/96-ORD 236)*
- k. Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous and cause no odor off-site. *(added 11/2/04-ORD 268)*

2. Conditional Uses Permitted. In an R-2 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13 where applicable.

- a. Cemetery.
- b. Church.
- c. Community center.

- d. Day nursery, nursery school, kindergarten or similar facility.
 - e. Governmental structure or use of land.
 - f. Home occupation.
 - g. Golf course or country club, but excluding golf driving range, miniature golf course, or similar facility.
 - h. Private non-commercial recreation club such as tennis, swimming, or archery club, but excluding commercial amusement or recreation enterprises.
 - i. Public park, playground, swimming pool.
 - j. Public school or private school offering curricula similar to public school.
 - k. Public or private utility facility.
 - l. Radio or television transmitter or tower.
 - m. Solid waste disposal transfer station.
3. Standards. Except as provided in Articles 4, 5, and 6 in an R-2 zone, the following standards shall apply:
- a. Lot Size and Dimension. The minimum lot size and dimensions in an R-2 zone shall be as follows:
 - 1) The lot area shall be 5,000 square feet for a one-family dwelling and 10,000 square feet for a two-family dwelling.
 - 2) The minimum lot width at the front lot line shall be fifty (50) feet for an interior lot and fifty five (55) feet for a corner lot, except flag lots. The “staff” of a flag lot shall have a minimum width and frontage of not less than twenty five (25) feet. *(amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
 - 3) The minimum lot depth shall be 80 feet.
 - 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. *(added 10/7/91-ORD 172)*
 - b. Yards. The minimum yard requirements in the R-2 zone shall be as follows:
 - 1) The front yard shall be a minimum of 20 feet.
 - 2) Each side yard shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.

- 3) The street side yard shall be a minimum of twenty (20) feet except this may be reduced by one (1) foot for each foot the average lot width is less than sixty (60) feet, however, no street side yard shall be less than ten (10) feet. (See "Lot Width" definition in Section 1.030 for method of calculation.) *(amended 4/6/04-ORD 256)*
 - 4) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 5) No structure shall be located closer than 60 feet from the center line of any state highway.
- c. Building Height. No building in the R-2 zone shall exceed a height of 30 feet.

Section 3.030. Residential Zone R-3. (as amended 8/19/80-ORD 71, 4/6/87-ORD 130, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 2/16/93-ORD 187, 12/16/96-ORD 236, 4/6/04-ORD 256, 11/2/04-ORD 268, 5/4/10-ORD 287) In an R-3 zone, the following regulations shall apply:

1. Uses Permitted Outright. In an R-3 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 where applicable.
 - a. A single family dwelling built on the site. (as amended 2/16/93-ORD 187)
 - b. Manufactured home, including single-wide mobile homes. (as amended 12/2/91-ORD 173, 2/16/93-ORD 187, replaced 5/4/10-ORD 287)
 - c. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: (as amended 12/2/91-ORD 173)
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
 - d. Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further that no commercial structure shall be constructed or maintained on the premises.
 - e. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. (as amended 12/2/91-ORD 173, 2/16/93-ORD 187)
 - f. Pre-fabricated or modular dwelling. (as amended 2/16/93-ORD 187)
 - g. Two-family dwelling.
 - h. Multi-family dwelling.
 - i. Condominiums. (added 4/6/87-ORD 130)
 - j. Residential facility. (added 9/17/90-ORD 154)
 - k. Residential homes. (added 10/7/91-ORD 172)
 - l. Family day care provider. (added 10/7/91-ORD 172)
 - m. Transparent Occupation. (added 12/16/96-ORD 236)
 - n. Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous and cause no odor off-site. (added 11/2/04-ORD 268)

2. Conditional Uses Permitted. In an R-3 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13 where applicable:
- a. Cemetery.
 - b. Church, non-profit religious or philanthropic institution.
 - c. Community center.
 - d. Day nursery, nursery school, kindergarten or similar facility.
 - e. Governmental structure or use of land.
 - f. Home occupation.
 - g. Golf course or country club, but excluding golf driving range, miniature golf course, or similar facility.
 - h. Private non-commercial recreation club such as tennis, swimming or archery club, but excluding commercial amusement or recreation enterprises.
 - i. Public park, playground, swimming pool.
 - j. Public school or private school offering curricula similar to public school.
 - k. Public or private utility facility.
 - l. Radio or television transmitter or tower.
 - m. Solid waste disposal transfer station.
 - n. Mobile home park/manufactured dwelling park. *(as amended 12/2/91-ORD 173)*
 - o. Recreation vehicles on individual lots.
3. Standards. Except as provided in Articles 4, 5 and 6 in an R-3 zone, the following standards shall apply:
- a. Lot Size and Dimensions. The minimum lot size and dimensions in an R-3 zone shall be as follows:
 - 1) The lot area shall be 5,000 square feet for a one-family dwelling. The minimum lot area shall be 3,750 square feet per dwelling unit for a multi-family dwelling.
 - 2) The minimum lot width at the front lot line shall be fifty (50) feet for an interior lot and fifty five (55) feet for a corner lot, except flag lots. The “staff” of a flag lot shall have a minimum width and frontage of not less than twenty five (25) feet. *(amended 10/7/91-ORD 172, 4/6/04-ORD 256)*

- 3) The minimum lot depth shall be 80 feet.
 - 4) Lot area for ocean front 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. *(added 10/7/91-ORD 172)*
- b. Yards. The minimum yard requirements in the R-3 zone shall be as follows:
- 1) The front yard shall be a minimum of 20 feet.
 - 2) Each side yard shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 3) The street side yard shall be a minimum of twenty (20) feet except this may be reduced by one (1) foot for each foot the average lot width is less than sixty (60) feet, however, no street side yard shall be less than ten (10) feet. (See "Lot Width" definition in Section 1.030 for method of calculation.) *(amended 4/6/04-ORD 256)*
 - 4) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 5) No structure shall be located closer than 60 feet from the center line of any state highway.
- c. Building Height. No building in the R-3 zone shall exceed a height of 30 feet.

Section 3.040. Residential Zone R-4. (as amended 8/19/80- ORD 71, 4/6/87-ORD 130, 1/3/89-ORD 145, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 12/22/92-ORD 186, 2/16/93-ORD 187, 12/16/96-ORD 236, 4/6/04-ORD 256, 11/2/04-ORD 268, 5/4/10-ORD 287) In an R-4 zone, the following regulations shall apply:

1. Uses Permitted Outright. In an R-4 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 where applicable:
 - a. A single family dwelling built on the site. (as amended 2/16/93-ORD 187)
 - b. Manufactured home (as amended 12/2/91-ORD 173, replaced 5/4/10-ORD 287)
 - c. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: (as amended 12/2/91-ORD 173)
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
 - d. Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further that no commercial structure shall be constructed or maintained on the premises.
 - e. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. (as amended 12/2/91-ORD 173, 2/16/93-ORD 187)
 - f. Pre-fabricated or modular dwelling. (as amended 2/16/93-ORD 187)
 - g. Two-family dwelling.
 - h. Multi-family dwelling.
 - i. Condominiums. (added 4/6/87-ORD 130)
 - j. Residential facility. (added 9/17/90-ORD 154)
 - k. Residential homes. (added 10/7/91-ORD 172)
 - l. Family day care provider. (added 10/7/91-ORD 172)
 - m. Transparent Occupation. (added 12/16/96-ORD 236)
 - n. Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous and cause no odor off-site. (added 11/2/04-ORD 268)
2. Conditional Uses Permitted. In an R-4 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13 where applicable:

- a. Cemetery.
 - b. Church, non-profit religious or philanthropic institution.
 - c. Community center.
 - d. Day nursery, nursery school, kindergarten or similar facility.
 - e. Governmental structure or use of land.
 - f. Home occupation.
 - g. Golf course or country club, but excluding golf driving range miniature golf course, or similar facility.
 - h. Private non-commercial recreation club such as tennis, swimming or archery club, but excluding commercial amusement or recreation enterprises.
 - i. Public park, playground, swimming pool.
 - j. Public school or private school offering curricula similar to public school.
 - k. Public or private utility facility.
 - l. Radio or television transmitter or tower
 - m. Solid waste disposal transfer station.
 - n. Mobile home park/manufactured dwelling park. *(as amended 12/2/91-ORD 173)*
 - o. Retirement home.
 - p. Parking area, meeting the requirements of 4.030 of this ordinance. *(added 1/3/89-ORD 145, amended 12/22/92-ORD 186)*
3. Standards. Except as provided in Articles 4, 5 and 6 in an R-4 zone, the following standards shall apply:
- a. Lot Size and dimensions. The minimum lot size and dimensions in an R-4 zone shall be as follows:
 - 1) The lot area shall be 5,000 square feet for a one-family dwelling. The minimum lot area for dwelling unit shall be 2,500 square feet for multi-family dwellings.
 - 2) The minimum lot width at the front lot line shall be fifty (50) feet for an interior lot and fifty five (55) feet for a corner lot, except flag lots. The “staff” of a flag lot shall have a minimum width and frontage of not less than twenty five (25) feet. *(amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
 - 3) The minimum lot depth shall be 80 feet.

- 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. *(added 10/7/91-ORD 172)*
- b. Yards. The minimum yard requirements in the R-4 zone shall be as follows:
- 1) The front yard shall be a minimum of 20 feet.
 - 2) Each side yard shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 3) The street side yard shall be a minimum of twenty (20) feet except this may be reduced by one (1) foot for each foot the average lot width is less than sixty (60) feet, however, no street side yard shall be less than ten (10) feet. (See "Lot Width" definition in Section 1.030 for method of calculation.) *(amended 4/6/04-ORD 256)*
 - 4) The rear yard shall be a minimum of 10 feet, except that on a corner lot, it shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 5) No structure shall be located closer than 60 feet from the center line of any state highway.
- c. Building Height. No building in the R-4 zone shall exceed a height of 35 feet.

Section 3.050. Residential Zone R-5. (3.050 repealed, renumbered 3.060, 8/19/80- ORD 71, amended 4/6/87-ORD 130, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 2/16/93-ORD 187, 12/16/96-ORD 236, 4/6/04-ORD 256, 11/2/04-ORD 268, 5/4/10-ORD 287) In an R-5 zone, the following regulations shall apply:

1. Uses Permitted Outright. In an R-5 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 where applicable.
 - a. A single family dwelling built on the site. (as amended 2/16/93-ORD 187)
 - b. Manufactured home. (as amended 12/2/91-ORD 173, replaced 5/4/10-ORD 287)
 - c. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: (as amended 12/2/91-ORD 173)
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
 - d. Agricultural use of land provided that no livestock shall be raised or kept on the premises and provided further that no commercial structure shall be constructed or maintained on the premises.
 - e. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. (as amended 12/2/91-ORD 173, 2/16/93-ORD 187)
 - f. Pre-fabricated or modular dwelling. (as amended 2/16/93-ORD 187)
 - g. Two-family dwelling.
 - h. Multi-family dwelling.
 - i. Retirement home.
 - j. Condominiums. (added 4/6/87-ORD 130)
 - k. Residential facility. (added 9/17/90-ORD 154)
 - l. Transparent Occupation. (added 12/16/96-ORD 236)
 - m. Commercial fishing gear storage at the gear owner's dwelling or adjacent lot under the same ownership. The gear must be stored in a neat and orderly manner and must be non-toxic, non-hazardous and cause no odor off-site. (added 11/2/04-ORD 268)
2. Conditional Uses Permitted. In an R-5 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13 where applicable.
 - a. Cemetery.

- b. Church, non-profit religious or philanthropic institution.
 - c. Community center.
 - d. Day nursery, nursery school, kindergarten or similar facility.
 - e. Governmental structure or use of land.
 - f. Home occupation.
 - g. Golf course or country club, but excluding golf driving range, miniature golf course or similar facility.
 - h. Private non-commercial recreation club such as tennis, swimming or archery club, but excluding commercial amusement or recreation enterprises.
 - i. Public park, playground, swimming pool.
 - j. Public school or private school offering curricula similar to public school.
 - k. Public or private utility facility.
 - l. Radio or television transmitter or tower.
 - m. Solid waste disposal transfer station.
 - n. Mobile home park/manufactured dwelling park. *(as amended 12/2/91-ORD 173)*
3. Standards. Except as provided in Articles 4, 5 and 6 in an R-5 zone, the following standards shall apply:
- a. Lot Size and Dimensions. The minimum lot size and dimensions in an R-5 zone shall be as follows:
 - 1) The lot area shall be 5,000 square feet for a one-family dwelling. The minimum lot area per dwelling unit shall be 1,250 square feet for multi-family dwellings.
 - 2) The minimum lot width at the front lot line shall be fifty (50) feet for an interior lot and fifty five (55) feet for a corner lot, except flag lots. The “staff” of a flag lot shall have a minimum width and frontage of not less than twenty five (25) feet. *(amended 10/7/91-ORD 172, 4/6/04-ORD 256)*
 - 3) The minimum lot depth shall be 80 feet.
 - 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. *(added 10/7/91-ORD 172)*

- b. Yards. The minimum yard requirements in the R-5 zone shall be as follows:
- 1) The front yard shall be a minimum of 20 feet.
 - 2) Each side yard shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 3) The street side yard shall be a minimum of twenty (20) feet except this may be reduced by one (1) foot for each foot the average lot width is less than sixty (60) feet, however, no street side yard shall be less than ten (10) feet. (See "Lot Width" definition in Section 1.030 for method of calculation.) *(amended 4/6/04-ORD 256)*
 - 4) The rear yard shall be a minimum of 10 feet, except that on a corner lot, it shall be a minimum of either 5 feet or one foot for each 3 feet of building height, whichever requirement is the greater.
 - 5) No structure shall be located closer than 60 feet from the center line of any state highway.
- c. Building Height. No building in the R-5 zone shall exceed a height of 40 feet.

Section 3.110. Retail Commercial Zone C-1. (as amended 8/19/80- ORD 71, 7/7/82- ORD 92, 4/6/87- ORD 130, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 12/22/92-ORD 186, 2/16/93-ORD 187, 4/17/95-ORD 217, 12/16/96-ORD 234, 11/2/04-ORD 268) In a C-1 zone, the following regulations shall apply:

1. Uses Permitted Outright. In a C-1 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 where applicable:
 - a. A single family dwelling built on the site. (as amended 2/16/93-ORD 187)
 - b. Manufactured dwelling. (as amended 12/2/91-ORD 173)
 - c. A temporary manufactured dwelling or recreational vehicle used for dwelling purposes during the construction of a permitted use for which a building permit has been issued, provided the temporary manufactured dwelling or recreational vehicle: (as amended 12/2/91-ORD 173)
 - 1) Is located during the time the construction is underway; and
 - 2) Will not remain more than one (1) year from date of placement or thirty (30) days following substantial completion, whichever is earlier.
 - d. Agricultural use of land provided that no livestock shall be raised or kept on the premises.
 - e. Recreational vehicle (unoccupied) or boat, stored on a lot in combination with an approved building. (as amended 12/2/91-ORD 173, 2/16/93-ORD 187)
 - f. Pre-fabricated or modular dwelling. (as amended 2/16/93-ORD 187)
 - g. Two-family dwelling.
 - h. Multi-family dwelling.
 - i. Retail store or shop such as food store, gift shop, drug store, apparel store, hardware store, furniture store, or similar establishment.
 - j. Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 zone provided all repair shall occur entirely within an enclosed building.
 - k. The manufacture, fabrication and/or assembly of those goods offered for sale on the premises, provided all manufacturing, fabricating, assembling, and storage not exceed 50% of the total floor area of the establishment and provided further that it shall occur within an enclosed building.
 - l. Personal or business service establishment such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop or similar establishment.
 - m. Clinic.
 - n. Club, lodge or fraternal organization.

o. Financial institution.

** *Hotel, motel or resort (deleted 12/16/96-ORD 234 see Tourist Accommodation).*

p. Indoor commercial amusement or recreation establishment such as a bowling alley, theater, pool hall or aquarium.

q. Mortuary.

r. Newspaper office, print shop.

s. Office.

t. Private museum, art gallery or similar facility.

u. Restaurant, bar or tavern.

v. Home occupation.

w. Automobile service station, including minor repair, provided it is conducted entirely within an enclosed building.

x. Laundromat.

y. Retail sale of sporting goods or bait.

z. Condominiums. *(added 4/6/87-ORD 130)*

aa. Public or private parking lots. *(added 10/7/91-ORD 172)*

bb. Residential facility. *(added 9/17/90-ORD 154)*

cc. Time share project. *(added 4/6/87-ORD 130)*

dd. Tourist Accommodation or Resort. *(added 12/16/96-ORD 234)*

ee. Commercial fishing gear storage in the part of the zone adjacent to the harbor (Tax Map 09-11-08 AB, tax lots 600, 700, 800, 900, 1000, 1100, 1101, 1200, 1201, 7900, 8000, 8100, 8200, 90000, 90001, 90002, 90003). *(added 11/2/04-ORD 268)*

2. Conditional Uses Permitted. In a C-1 zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5, 6 and 13, where applicable:

a. Church, non-profit religious or philanthropic institution.

b. Community center.

c. Day nursery, nursery school, kindergarten or similar activity.

d. Governmental structure or use of land.

- e. Mobile vending stand. *(added 7/7/82-ORD 92)*
 - f. Private non-commercial recreation club such as tennis, swimming or archery club.
 - g. Public park, playground, swimming pool.
 - h. Public school or private school offering curricula similar to public school.
 - i. Public or private utility facility.
 - j. Radio or television transmitter or tower.
 - k. Solid waste disposal transfer station.
 - l. Recreational vehicle park. *(as amended 12/2/91-ORD 173)*
 - m. Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.
 - n. Hospital and/or nursing home.
 - o. Drive-in services, such as a drive-in restaurant.
 - p. Billboards.
 - q. Kennel.
 - r. Animal hospital
 - s. Automobile repair garage provided all repair shall be conducted entirely within an enclosed building.
 - t. Boat or marine equipment sales, service, storage, or rental; boat or marine equipment minor repair, provided all such repair be conducted entirely within an enclosed building. *(added 4/17/95-ORD 217)*
 - u. Lumber or building materials, sales, and storage. *(added 4/17/95-ORD 217)*
 - v. Warehouse or storage area. *(added 4/17/95-ORD 217)*
3. Standards. Except as provided in Articles 4, 5 and 6, in any C-1 zone, the following standards shall apply: *(as amended 12/16/96-ORD 234)*
- a. All yards abutting a lot in a residential zone shall be a minimum of 10 feet.
 - b. No building in the C-1 zone shall exceed a height of 35 feet.
 - c. Outdoor storage shall be screened with a sight-obscuring fence.

d. Kennels shall be located:

- 1) No closer than 75 feet from a residential zone.
- 2) No closer than 20 feet from a property line.

e. Off-Street Parking. Off-street parking requirements shall be located on the same lot or within 500 feet (as measured by a direct line from the nearest property line to the nearest property line of the parking lot), unless otherwise approved by the Planning Commission, and shall meet the provisions set forth under Section 4.030, Off-Street Parking and Off-Street Loading Requirements. *(added 12/22/92-ORD 186)*

- 1) Off-street parking provided in accordance with this section shall be committed to the use for which it is approved.
- 2) Off-street parking provided in accordance with this section shall be designated by signs approved in conformance with ordinance #58 (Depoe Bay Sign Ordinance) or its successor ordinance. A sign shall be posted in manner visible from a street adjacent to the parking area that the parking area is for off-street parking for use in conjunction with the subject retail commercial property, by designating the name of the retail commercial use located at the subject property. A sign shall be posted in a manner visible from a street adjacent to the primary public entrance of the retail commercial use as to the location or general direction of the remote off-street parking area.

4. All retail commercial uses existing at the time of adoption of this ordinance which have off-street parking required by Ordinance No. 24 (Depoe Bay Zoning Ordinance) at locations other than on the same parcel as where the retail commercial use is located or on parcels adjacent thereto which are developed and improved so to appear as contiguous to the retail commercial use shall comply with the signage requirements as set forth in Section 1 of this ordinance (Section 3.110 (3)(f)(1) and (2) within ninety days from the date of adoption of this ordinance, unless following application for exemption to the Planning Commission within forty-five days from the date of adoption of this ordinance, compliance shall be excused or delayed on the basis of undue hardship by the Planning Commission. No sign permit fee shall be charged or collected from any existing retail commercial use applicant who submits application for signage as required by this subsection within forty-five days from the date of adoption of this ordinance. *(ORD 186, section 4-12/22/92)*

Section 3.120. North Coast Avenue Limited Land Use Overlay Zone (NCA). (added 1/6/03 – ORD 261)

- a. Location: The NCA includes twelve oceanfront properties located west of Coast Avenue between Ellingson Street and Graham Street identified on Lincoln County Assessor's Map 9-11-8 BA as Tax Lots 5300, 5400, 5500, 5600, and Map 9-11-8 BD as Tax Lots 6500, 6600, 6700, 6800, 6900, 7000, 7100, and 7200.
- b. Purpose: The NCA is in recognition of the property owner's desire to limit the commercial uses of their properties to those that would maintain the outer appearance of their neighborhood as homes on single lots and that would be compatible with the capability of those lots to handle such commercial uses. These standards and provisions are in addition to City Ordinances and Federal and State laws and regulations.
- c. General Requirements for Establishing a Limited Land Use Overlay Zone: The NCA Limited Land Use Overlay Zone is established in that the following conditions exist:
 - a. The area is unique in the C-1 zone by its residential character and its utility for vacation rental dwelling uses.
 - b. There is 100% approval of the limited land use overlay from the property owners within the NCA and 71% approval from those property owners within two hundred fifty (250) feet of the boundaries of the NCA.
 - c. The twelve properties in the NCA are contiguous.
 - d. Special standards are provided for the NCA in subsection 5 below.
 - e. The reasons asserted as a basis for the NCA limited land use overlay application do not arise from a violation of the Depoe Bay Zoning Ordinance.
- d. Uses Permitted Outright: In the NCA zone, the following uses are permitted subject to the applicable provisions of Articles 4, 5 and 13 of Ordinance No. 24 (Depoe Bay Zoning Ordinance):
 - a. A single family dwelling built on the site.
 - b. Vacation rental dwelling (within a single family dwelling).
 - c. Home Occupation.
 - d. Transparent Occupation.
- e. Standards: In addition to the underlying zone standards, the following standards apply in the NCA zone:
 - a. Yards: Minimum yard setback requirements in the NCA shall comply with R-1 zone standards.
 - b. Building Height: Maximum building height shall comply with R-1 zone standards.

- c. Nuisance Control: NO noise, lights, dust, smoke, odors, electromagnetic frequencies generated on-site in excess of the amounts normally associated with residential uses shall emanate off-site or interfere with surrounding residential or commercial uses.
- d. Lighting: Outside lighting shall be restricted to low voltage lighting and/or motion sensor lighting for security.
- e. Off-Street Parking: For vacation rental dwelling uses, off-street parking space requirements are one (1) space for each bedroom and shall be located on the same lot or on spaces specifically designated by the applicant within two hundred fifty (250) feet (as measured by a direct line from the nearest property lines). Any new or substantially improved structure shall be required to provide the minimum required parking spaces on-site in accordance with Article 4 of Ordinance NO. 24 (Depoe Bay Zoning Ordinance).
- f. Solid Waste Disposal: For vacation rental dwelling uses, adequate garbage receptacles must be provided and weekly solid waste pick-up is required during all months of the year.
- g. Oregon State Law Compliance: It is the property owner's responsibility to ensure that a vacation rental dwelling use remains in substantial compliance with Oregon State regulations for the following: Health, Safety, Building Code, Fire Code, Tourist Accommodation Statutes, and Uniform Housing Code.
- h. Occupancy: Vacation rental dwellings shall not exceed two (2) persons per bedroom plus one (1) additional person per dwelling.
- i. Signage: Vacation rental dwelling uses shall only have one on-site sign which must be four (4) square feet in area. The sign shall identify the site as a vacation rental business, identify the local contact person and state that the local contact person is available 24 hours each day, 7 days a week to handle rentals and complaints.
- j. Local Responsible Party: For vacation rental dwelling uses, a local responsible party within the local telephone calling area must be identified by the owner. The owner shall provide the telephone number of the local contact person to the City, along with authorization of that person to take action in place of the owner.
- k. Business License: For vacation rental dwelling, home occupation and transparent occupation uses, a City of Depoe Bay business license is required. In addition, for vacation rental dwelling uses, transient room tax ordinance provisions shall apply.
- f. Revocation: Any violation of the requirements or standards of this Overlay Zone or any other City Ordinance may result in revocation of business license.
- g. Zoning Map: The NCA Overlay Zone is identified on the Depoe Bay zoning map with the symbol (NCA) in addition to the underlying C-1 zone.

Section 3.210. Light Industrial Zone L-I. (added 8/19/80- ORD 71, as amended 7/7/82- ORD 92, 4/6/87- ORD 130, 10/7/91-ORD 172, 12/2/91-ORD 173, 12/22/92-ORD 186, 12/16/96-ORD 234, 4/7/97-ORD 237, 11/2/04-ORD 268) In an L-I zone, the following regulations shall apply:

1. Uses Permitted Outright. In an L-I zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13, where applicable.
 - a. Multi-family dwelling.
 - b. Retail store or shop such as food store, gift shop, drug store, apparel store, hardware store, furniture store, or similar establishment.
 - c. Repair shop for the type of goods offered for sale in those retail trade establishments permitted in a C-1 zone provided all repair shall occur entirely within an enclosed building.
 - d. The manufacture, fabrication and/or assembly of those goods offered for sale on the premises, provided all manufacturing, fabrication, assembling and storage not exceed 50% of the total floor area of the establishment.
 - e. Personal or business service establishment such as barber or beauty shop, laundry, or dry cleaning establishment, tailor shop, or similar establishment.
 - f. Clinic.
 - g. Club, lodge, or fraternal organization.
 - h. Financial institution.
 - ** *Hotel, motel or resort (deleted 12/16/96-ORD 234) see Tourist Accommodation*
 - i. Indoor commercial amusement or recreation establishment such as bowling alley, theater, or pool hall.
 - j. Mortuary.
 - k. Newspaper office, print shop.
 - l. Office.
 - m. Private museum, art gallery or similar facility.
 - n. Restaurant, bar or tavern.
 - o. Automobile service station, including minor repairs.
 - p. Laundromat.
 - q. Retail sale of sporting goods or bait.
 - r. Automobile, truck or trailer sales, service, storage, rental or repair.

- s. Boat or marine equipment sales, service, storage, rental or repair.
 - t. Cabinet or similar woodworking shop.
 - u. Cold storage or ice processing plant.
 - v. Feed or seed store.
 - w. Implement, machinery, or heavy equipment sales, service, storage or rental.
 - x. Laboratory for experiment or research.
 - y. Lumber or building materials sales and storage.
 - z. Machine, welding, sheet metal or similar metal working shop.
 - aa. Plumbing, heating, electrical, roofing, or paint contractors, storage, repairs, or sales shop.
 - bb. Tire sales, repair, re-treading or vulcanizing.
 - cc. Truck terminal, freight depot.
 - dd. Warehouse or storage area.
 - ee. Wholesale establishment.
 - ff. Time share projects. *(added 4/6/87-ORD 130)*
 - gg. Condominiums *(added 4/6/87-ORD 130)*
 - hh. Public or private parking lots. *(added 10/7/91-ORD 172)*
 - ii. Manager/owner/caretaker residence. *(added 10/7/91, ORD 172)*
 - jj. Parking area, meeting requirements of 4.030 of this ordinance *(added 12/22/92-ORD 186)*
 - kk. Tourist Accommodation or Resort. *(added 12/16/96-ORD 234)*
 - ll. Commercial fishing gear storage. *(added 11/2/04-ORD 268)*
2. Conditional Uses Permitted. In an L-I zone, the following uses and their accessory uses may be permitted subject to the provisions of Articles 4, 5, 6 and 13, where applicable:
- a. Community center.
 - b. Governmental structure or use of land.
 - c. Public park, playground, swimming pool.

- d. Public or private utility facility.
- e. Radio or television transmitter or tower.
- f. Solid waste disposal transfer station.
- g. Recreational vehicle park. *(as amended 12/2/91-ORD 173)*
- h. Drive-in services, such as a drive-in restaurant.
- i. Billboards.
- j. Kennel.
- k. Animal hospital.
- l. A use involving manufacture, research, repair, assembly, processing, fabricating, packing, distribution, warehousing, wholesaling, or storage, provided that the use does not create a public nuisance or an unreasonable hazard to health or property because of excessive noise, smoke, odor, or dust or because it constitutes a fire, explosion, or other physical hazard.
- m. Mobile vending stand. *(added 7/7/82-ORD 92)*
- n. Except that the following uses are prohibited in an L-I zone:
 - 1) Cement, lime, gypsum, or plaster of paris manufacture.
 - 2) Explosives storage or manufacture.
 - 3) Fertilizer manufacture.
 - 4) Gas manufacture.
 - 5) Glue manufacture.
 - 6) Petroleum or petroleum products refining.
 - 7) Pulp mill.
 - 8) Rendering plant.
 - 9) Slaughterhouse, stock yard.
 - 10) Smelting or refining of metallic ore.
 - 11) Other uses similar to the above.
- o. Churches and religious organizations, subject to the following special, supplemental requirements: *(added 4/7/97-ORD 237)*
 - (1.) The proposed location is suitable, considering:
 - (a) the size, design and operating characteristics of the proposed use;
 - (b) the adequacy of transportation access to the proposed location;
 - (c) the natural and physical features of the site, such as general topography, natural hazards, natural resource values and other features.
 - (2.) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in subsection (1) above.
 - (3.) No adverse impact to existing and projected surrounding properties and uses shall occur due to on-street parking upon compliance with the off-street parking requirements in section 4.030 (15)(f); if an adverse impact is found to exist

notwithstanding compliance with the off-street parking requirements in section 4.030 (15)(f), the off-street parking requirements shall be increased to one parking space for each 3 persons, as determined by the maximum occupancy by the fire marshal, in the assembly area.

- (4.) All off-street parking shall be located on the same lot or on lot(s) immediately adjacent to the church or religious organization, provided however that no off-street parking shall be located across a state highway or arterial, commercial or industrial street (as defined by the Comprehensive Plan, Resolution No. 107 or its successor, or resolution of the City Council).
- (5.) A waiver of remonstrance, recognizing the rights of property owners within the L-I zone to use their property for the purposes permitted within the L-I zone, to be recorded with the Lincoln County Clerk.

3. Standards. Except as provided in this section and in Article 4, 5 and 6, the standards which apply in the C-1 zone shall apply in the L-I zone. *(as amended 12/16/96-ORD 234)*

- a. All yards abutting a lot in a residential zone shall be a minimum of 20 feet.
- b. Outdoor storage abutting or facing a street or highway or a lot in a residential zone shall be screened with a sight-obscuring fence.
- c. No building in the L-I zone shall exceed a height of 40 feet.
- d. Kennels shall be located:
 - 1) No closer than 75 feet from a residential zone.
 - 2) No closer than 20 feet from a property line.
- e. All uses allowed either outright or conditionally in the L-I zone involving manufacture, repair, assembly, processing, or fabricating shall be conducted entirely within an enclosed building. The manufacture or repair of boats shall be exempted from this requirement.

Section 3.310. Marine Commercial Zone M-C. (as amended 8/19/80- ORD 71, 7/7/82- ORD 92, 3/24/88-ORD 139, 10/7/91-ORD 172, 6/1/92-ORD 178) In an M-C zone the following regulations shall apply:

1. Uses Permitted Outright. In an M-C zone the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13, where applicable.
 - a. Automobile service station.
 - b. Moorage facility, marine and/or boat charter services.
 - c. Boat or marine equipment sales, service, storage, rental or repair.
 - d. Manufacture of boats.
 - e. Restaurant, bar or tavern.
 - f. Retail services, sales and office space. (as amended 3/24/88-ORD 139, 6/11/92-ORD 178)
 - g. Manufacture, assembly, processing and/or packing of sea products.
 - h. Manager / owner / caretaker residence. (added 10/7/91-ORD 172)
2. Conditional Uses Permitted. In an M-C zone, the following uses and their accessory uses may be permitted, subject to the provisions of Articles 4, 5, 6 and 13, where applicable.
 - a. Governmental structure or use of land.
 - b. Marine laboratory for experiment or research.
 - c. Public park, playground or similar recreation area.
 - d. Public or private utility facility.
 - e. Any use permitted in the M-C zone involving filling and/or construction, addition, or reconstruction of piers, docks, bulkheads, boathouses, or similar facilities.
 - f. Mobile vending stand. (added 7/7/82, ORD 92)
3. Standards. Except as provided in Articles 4, 5 and 6 that there shall be no limitations pertaining to fencing of outdoor storage areas, the standards which apply in the C-1 zone shall apply in the M-C zone.

Section 3.320. Planned Marine and Recreation Zone M-P. (as amended 8/19/80-ORD 71, 11/2/04-ORD 268) In an M-P zone, the following regulations shall apply:

1. Uses Permitted Outright. In an M-P zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13, where applicable.
 - a. Bait and tackle shop.
 - b. Boat launching, marine ways.
 - c. Moorage facilities.
 - d. Marina.
 - e. Marine fuel sales.
 - f. Boat charter services.
 - g. Dry dock facilities for boat repair and maintenance.
 - h. Laboratory for experiment or research of marine life.
 - i. Manufacture, assembly, processing and/or packing of sea products.
 - j. Marine loading and unloading facilities
 - k. Marine supply sales.
 - l. Commercial fishing gear storage. (*moved from conditional use 11/2/04-ORD 268*)
2. Conditional Uses Permitted. In an M-P zone, the following uses and their accessory uses may be permitted, subject to the provisions of Articles 4, 5, 6 and 13, where applicable.
 - a. Restaurant.
 - b. Seafood market.
 - c. Boat storage.
 - d. Public park, playground or similar recreation area.
3. Standards. Except as provided in Articles 4, 5 and 6, the standards which apply in the M-C zone shall apply in the M-P zone.
4. Special Standards. In allowing a building permit for any use allowed outright in the M-P zone, the city must establish through a process of administrative review, which may at the City Council's direction be vested with the City Recorder, the Planning Commission, the Harbor Commission, the City Council, or any other body appointed by the City Council, that:
 - a. The use or activity that is being proposed can only be carried out on, in or adjacent to the water because the use physically or economically requires access

to the water body for water-borne transportation, recreation, energy production, or source of water.

- b. The plan for development will assure the creation of an attractive environment and protect all present and potential development from any possible blighting effects.
5. Special Standards in Allowing a Conditional Use. In an M-P zone, the allowance of a conditional use may only be granted when it is found that the conditional use will not preempt any water-dependent uses allowed outright in the M-P zone from direct access to the estuarine waters.

Section 3.330. Marine Waterway Zone M-W. (added 8/19/80-ORD 71, amended 3/15/82-ORD 85) In an M-W zone, the following regulations shall apply:

1. Uses Permitted Outright. In an M-W zone, the following uses and their accessory uses are permitted, subject to the provisions of Articles 4, 5 and 13 of this ordinance and to the Depoe Bay Estuarine Plan, ordinance #72, where applicable:

A use permitted outright as indicated in the Permitted Use Matrix of the Depoe Bay Estuarine Plan, ordinance #72, specific to the estuarine management unit within which the use is proposed.

2. Conditional Uses Permitted: In an M-W zone, the following uses and their accessory uses may be permitted, subject to the applicable provisions of Articles 4, 5, 6 and 13 of this ordinance-and the Depoe Bay Estuarine Plan, Ordinance #72.

A conditional use as indicated in the Permitted Use Matrix of the Depoe Bay Estuarine Plan, ordinance #72, specific to the estuarine management unit within which the use is proposed.

3. Standards: All uses permitted outright or as conditional are subject to the Estuarine Standards of the Depoe Bay Estuarine Plan, ordinance #72. In addition to the requirements of this ordinance, a conditional use within the M-W zone may be allowed only when findings in accordance with the provisions of the Depoe Bay Estuarine Plan (Conditional Uses) are made.

Section 3.340. Timber Conservation Zone T-C. (added 8/19/80-ORD 71, amended 4/6/04-ORD 256, 5/4/10-ORD 287) In a T-C zone, the following uses are permitted and shall be governed by the provisions of the Oregon Forest Practices Act and the applicable statute of the latest ORS. Uses not expressly mentioned are not allowed.

1. Uses Permitted Outright: The following uses are permitted in Depoe Bay's T-C zone, subject to obtaining a permit from the Oregon Department of Forestry and subject to applicable siting criteria, other applicable provisions of this section, and applicable provisions of Articles 4, 5, 6 and 13 of this ordinance:
 - a. Forest operations or forest practice 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 which are auxiliary to and used during the term of a particular forest operation. As used in this subsection, "auxiliary" means a use or alteration of a structure or land which 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.
 - 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.
 - d. Uses to conserve soil, air and water quality, and to provide for wildlife and fisheries resources.
 - e. Farm use as defined in the applicable statute of the latest ORS. (amended 5/4/10-ORD 287)
 - f. Local distribution lines, such as electric, telephone and natural gas, and accessory equipment, such as electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals, or equipment which provides service hookups, including water service hookups.
 - g. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
 - h. Temporary forest labor camps limited to the duration of the forest operation requiring the use.
 - i. Exploration for, and production of, geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in the applicable statute of the latest ORS. (amended 5/4/10-ORD 287)
 - j. Caretaker residences for public parks and fish hatcheries.
 - k. Private hunting and fishing operations without any accommodations.
 - l. Exploration for mineral and aggregate resources as defined in the applicable statute of the latest ORS. (amended 5/4/10-ORD 287)

- m. Towers and fire stations for forest fire protection.
 - n. Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans, including public road and highway projects as described in the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
 - o. Water intake facilities, canals, and distribution lines for farm irrigation and ponds.
 - p. Uninhabitable structures accessory to fish and wildlife enhancement.
 - q. Alteration, restoration or replacement of a lawfully established dwelling that:
 - 1) Has intact exterior walls and roof structure;
 - 2) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - 3) Has interior wiring or interior lights; and
 - 4) Has a heating system.

In the case of replacement, the original building is to be removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.
2. Conditional Uses Permitted: The following uses may be permitted subject to the provisions of subsection 3 of this section and applicable provisions of Articles 4, 5, 6 and 13 of this ordinance:
- a. Temporary log scaling and weigh station.
 - b. Parks and campgrounds.
 - c. Television, microwave and radio communication facilities and transmission towers.
 - d. Fire stations for rural fire protection.
 - e. Aids to navigation and aviation.
 - f. Water intake facilities, related treatment facilities, pumping stations, and distribution lines for uses other than farm use.
 - g. Reservoirs and water impoundments.
 - h. New electric transmission lines with right-of-way widths of up to 100 feet as specified in the applicable statute of the latest ORS. New distribution lines, such as gas, oil and geothermal, with rights-of-way 50 feet wide or less in width. *(amended 5/4/10-ORD 287)*
 - i. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

- j. Public road and highway projects as described in the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
 - k. Forest management research and experimentation facilities as defined by the applicable statute of the latest ORS or where accessory to forest operations. *(amended 5/4/10-ORD 287)*
3. Limitations on Conditional Uses: The City Planner or Planning Commission shall determine whether a use authorized by subsection 2 of this section meets the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture, and to conserve values found on forest lands:
- a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
 - b. The proposed use will not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and
 - c. A written statement is recorded with the deed or a written contract is made with the city or its equivalent, in which the land owner recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and subsection 2(a), (j) and (k) of this section.
4. Lot Size Standards: The minimum lot size shall be 80 acres.
5. General Requirements for All Buildings: In addition to the other applicable requirements of this section, all buildings authorized in the T-C zone shall be subject to the following conditions:
- a. The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicate that minimum stocking requirements have not been met.
 - b. Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to the applicable statute of the latest ORS and impose the additional tax pursuant to the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
 - c. The applicant shall provide evidence to the City that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules, OAR 629, 2003 Edition. For purposes of this subsection, evidence of a domestic water supply means:

- 1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water.
6. Siting and Fire Protection Standards for Buildings: The following siting and fire protection standards shall apply to all new buildings:
- a. Buildings and structures shall be sited on the subject lot or parcel so that:
 - 1) They have the least impact on nearby or adjoining forest lands;
 - 2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - 3) The amount of forest land used to site access roads, service corridors, the building and structures is minimized; and
 - 4) The risks associated with wildfire are minimized.

The Planning Commission may impose conditions on any building approval which are deemed necessary to ensure conformance with the standards contained in this subsection 6(a) including, but not limited to, requiring increased setbacks from adjoining properties, siting on that portion of a property least suitable for growing trees, or clustering near existing buildings or roads.

- b. Buildings shall have fire retardant roofs conforming to the requirements of Section R 221.4.2.1 of the State of Oregon One and Two-family Dwelling Specialty Code, 1993 Edition.
- c. Buildings shall be sited on slopes of 40 percent or less.
- d. A primary fire break no less than 30 feet wide shall be provided and maintained. The primary firebreak may include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
- e. A secondary firebreak cleared of all dead fuels shall be provided and maintained. The size of the secondary firebreak shall be:
 - 1) On slopes of less than 10 percent, 50 feet beyond the primary firebreak.
 - 2) On slopes of 11 to 25 percent, 75 feet beyond the primary firebreak.
 - 3) On slopes of 26 to 40 percent, 100 feet beyond the primary firebreak.
 - 4) On slopes greater than 40 percent, 150 feet beyond the primary firebreak.
- f. All chimneys shall be equipped with a spark arrester.

- g. If a building is to be located on a parcel that is within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included in such district.
- h. If a building is to be located on a lot or parcel that is not within a fire protection district, the applicant shall either;
 - 1) Provide evidence that residential fire protection is provided to the property by contract and that such contracted service is comparable to that generally provided by fire protection districts in the rural areas of the county; or
 - 2) On site fire protection means are provided. Such means shall consist of:
 - (i) Fire sprinkling system or systems;
 - (ii) On-site water storage and pumping equipment. Such a water supply shall consist of a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream with a minimum flow of one CFS. Road access shall be provided to within 15 feet of the water's edge for fire fighting equipment and shall provide a turnaround for fire fighting equipment; or
 - (iii) Other methods which provide at least a comparable level of protection to that contained in subsections (i) and (ii) above, and which are reasonable given site conditions.
- i. No building shall exceed a height of 30 feet except for fire towers.

7. Fire Safety Design Standards for Roads: The following standards apply to all roads and driveways which access uses permitted under Section 3.340(1) and Section 3.340(2), except for private roads accessing only commercial forest uses:

- a. Width: Access roads serving three or fewer buildings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serving more than three buildings shall have a 16 foot improved width and a 20 foot horizontal clearance.
- b. Construction: Access roads must be improved with an all weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 pounds. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 pound GVW standard shall be provided by a professional engineer, registered in Oregon.
- c. Vertical Clearance: Access roads shall have an unobstructed vertical clearance of not less than 13.5 feet.
- d. Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles with a design approved by the Fire Chief or Fire Marshal.

- e. Turnouts: Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.
- f. Road Grade: Road grades shall not exceed 12 percent, except that a maximum of 15 percent may be permitted on pitches less than 200 feet long. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states that their fire fighting equipment can negotiate the proposed road grades.
- g. The applicant shall provide an as-built certification stamped by a licensed professional engineer registered in the State of Oregon verifying that road safety design standards set forth in this section have been met.

Section 3.350. Public Facilities P-F zone. In a P-F zone, the following regulations shall apply:

1. Uses Permitted Outright. In a P-F zone, the following uses are permitted subject to the applicable provisions of Articles 4, 5 and 13 of this ordinance.
 - a. Public parks and playgrounds, swimming pools, golf courses or similar recreation facility intended for use by the public.
 - b. Public schools and associated facilities.
 - c. Hospitals.
 - d. Government use.
 - e. Solid waste disposal facility.
2. Conditional Uses Permitted: Expansion of existing facilities that would substantially increase overall capacity or the conversion of one outright use to another may be permitted when authorized in accordance with the provisions of Article 4, 5, 6 and 13 of this ordinance.
 - a. Expansion of public park and playground, golf course, swimming pool, or similar recreation facility.
 - b. Expansion of public schools and associated facilities.
 - c. Expansion of hospitals.
 - d. Expansion of government use.
 - e. Expansion of solid waste disposal facility.
 - f. Conversion of one outright use to another outright use.

Section 3.360. Coastal Shorelands Overlay Zone C-S. (added 3/15/85-ORD 85, amended 10/7/91-ORD 172, 4/6/04-ORD 256, 5/4/10-ORD 287)

1. Purpose: The purpose of the Coastal Shorelands Overlay Zone is to recognize the value of coastal shorelands for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, recreation and aesthetics. The C-S zone, in conjunction with various underlying zones, implements the Coastal Shorelands policies contained in the Depoe Bay Comprehensive Plan.
2. Application: The provisions of the C-S zone shall apply to all areas identified as within the Coastal Shorelands boundary on the Depoe Bay Shorelands Boundary Map. The provisions of the C-S zone are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the C-S zone and the underlying zone conflict, the more restrictive provisions shall apply. For the purposes of this section, Coastal Shorelands are those areas identified on the enclosed Depoe Bay Shorelands Boundary Map and identified on the zoning map overlays located at Depoe Bay City Hall. Coastal Shorelands areas generally include one or more of the following characteristics:
 - a. Subject to ocean flooding and lands within 100 feet of the ocean shore, or within 50 feet of the Depoe Bay estuary.
 - b. Where the geologic instability is related to or will impact a coastal water body.
 - c. Natural or man-made riparian resources, especially vegetation necessary to stabilize the shoreline and to maintain water quality and temperature necessary for the maintenance of fish and wildlife habitat.
 - d. Areas of significant shoreland and wetland biological habitats whose habitat quality is primarily derived from or related to the association with coastal water areas.
 - e. Areas necessary for water-dependent and water-related uses, including areas of recreational importance which utilize coastal water or riparian resources, areas appropriate for navigation and port facilities, dredge material disposal and mitigation sites, and areas having characteristics suitable for aquaculture.
 - f. Areas of exceptional aesthetic or scenic quality, where the quality is primarily derived from or related to the association with coastal water areas.
 - g. Coastal headlands.
3. Permitted Uses: In a C-S overlay zone, any of the outright or conditional uses authorized in the underlying zone may be permitted, subject to the applicable provisions of Article 4, 5, 6 and 13 of this ordinance, Section 3.370, and the additional provisions of this Section.
4. Procedure: Applicants requesting approval for any development action within the areas subject to the provisions of the C-S zone shall submit, along with any application, a detailed site plan and/or written statement demonstrating how the proposed activities will conform to each of the applicable standards contained in the C-S zone. The Planning Commission shall review the application to determine if each of the applicable criteria are met. Planning Commission review of such applications shall proceed in accordance with the applicable provisions of Articles 6, 7, 8, 9, 10 and 13 of this ordinance. Building permit applications

that do not enlarge or extend existing structures nor have any ground disturbing activities are exempt from Planning Commission review. *(replaced 5/4/10-ORD 287)*

5. Standards: The following standards will be applied in reviewing an application for a development action in the C-S zone.

a. Riparian Vegetation:

1) Definitions:

a) Zone of Riparian Vegetation

(1) Ocean and Estuary: The area between the point of mean higher high water and 50 feet landward measured on the horizontal.

(2) Streams: riparian vegetation is defined and shall be protected subject to the standards in Section 4.800.

b) Native Plants, Native Vegetation: Plant species that grow and propagate themselves in coastal shoreland areas along the central Oregon Coast through natural processes, are adapted to the weather, soils and hydrology of the area, and which have evolved in the area or been introduced to the area by natural causes. These plant species are to be distinguished from plant species which have been deliberately or accidentally imported or introduced from other areas by humans or human activities.

2) Ocean/estuary riparian vegetation shall be protected except as provided for below:

a) Removal of riparian vegetation is permitted only in conjunction with a use which requires direct access to water.

b) Removal of non-native vegetation to be replaced with native vegetation is permitted subject to a re-vegetation plan approved by the city which specifies temporary stabilization methods and the method and timing of permanent re-vegetation with native species.

c) Temporary removal of riparian vegetation may be permitted where there exist no viable alternatives to disturbing the riparian area to allow development on a lot. Such removal is subject to a revegetation plan approved by the city which specifies temporary stabilization methods, and the method and timing of permanent revegetation with native species and subject to the additional requirements below:

(1) The riparian disturbance area (e.g. for equipment access or utility placement) shall be a single pathway of the minimum size and length necessary and in no case be wider than 12 feet in width. The pathway shall also be oriented in a manner to minimize riparian area disturbance (e.g. oriented perpendicular to the riparian area, not along it).

(2) The disturbance pathway is chosen to avoid, to the maximum extent possible, any trees that are 6 inches or greater in diameter as measured four and one-half feet above the ground or large shrubs on the site. Any site plan proposing a temporary disturbance to the riparian area must show the location of all these trees, and all shrubs over 5 feet in height, in relationship to this pathway.

(3) Temporary exclusionary fencing must be erected prior to the start of construction at the outer boundaries of the disturbance pathway and must

remain in place until that phase of the construction is completed to assure that no damage to areas outside of the access pathway occur.

- 3) Except as provided for in Section 3.360(5)(a)(2) above, no development or development activities which could result in permanent destruction of riparian vegetation shall be located within the zone of riparian vegetation.
 - 4) Degraded riparian areas (i.e. with little or no native vegetation) shall be restored and enhanced when development or redevelopment occurs.
- b. Historic and Archaeological Sites: Sites subject to this section are identified in the Comprehensive Plan inventory "Open Spaces, Scenic & Historic Areas, Natural Resources, section i. Development in these areas shall not diminish the values of such sites as historic or archaeological resources. These sites are protected subject to requirements found in Section 4.830.
- c. Exceptional Aesthetic Resources: Development in areas of exceptional aesthetic resources or coastal headlands shall not substantially alter the existing visual character of the area. Sites subject to this section are identified in the Comprehensive Plan Inventory "Open Spaces, Scenic & Historic Areas, Natural Resources", section f. Standards for protecting such resources are found in Section 4.820.
- d. Protection of Coastal Access:
- 1) Application:
This section applies to public access sites identified in the Comprehensive Plan Inventory of Open Spaces, Scenic and Historic Areas, Natural Resources Section f. and to others that become established and added to the Inventory (e.g. under subsection 2, below). These access sites provide physical or visual access to the ocean or bay. Other public rights-of-way, easements and ownerships may be discovered over time, and/or legally obtained, or become a part of Depoe Bay through annexation.
 - 2) Standards:
Existing public ownerships, rights-of-way and similar public easements within the coastal shorelands which provide visual or physical access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site of at least equivalent access value is retained.

1.0 AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

1.1 AUTHORIZATION

The State of Oregon has in Depoe Bay delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Depoe Bay, does ordain as follows:

1.2 FINDINGS OF FACT

- (1) The flood hazard areas of Depoe Bay are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- (6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances

2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“APPEAL” means a request for a review of the interpretation of any provision of this ordinance 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 depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

“AREA OF SPECIAL FLOOD HAZARD” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“BASE FLOOD” means the flood having a one 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 two 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 WALL” means a wall that is not 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 a manufactured home park 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 before the effective date of the adopted floodplain management regulations.

“EXPANSION TO 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 Administration 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 this ordinance in Section 5.2-1(2).

“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.

“NEW CONSTRUCTION” means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

“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.

“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.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement 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 a basement, footings, piers, or foundations 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 that alteration affects the external dimensions of the building.

“STATE BUILDING CODE” means the combined specialty codes.

“STRUCTURE” means a walled and roofed building including 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 50 percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement 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
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“VARIANCE” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

“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.

3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Depoe Bay.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Lincoln County, Oregon and Incorporated Areas” dated December 18, 2009, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Depoe Bay City Hall. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 4.3-2.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ amount or imprisoned for not more than number days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Depoe Bay from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Severability. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes and rules including the state building code.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance 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 man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Depoe Bay, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

4.1-2 Application for Development Permit

Application for a development permit shall be made on forms furnished by the City of Depoe Bay and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level of floodproofing in any structure;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The city planner is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the city planner local administrator shall include, but not be limited to:

4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements and conditions of this ordinance have been satisfied.
- (2) Review all development permits to determine 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 to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.4(1) are met.

4.3-2 Use of Other Base Flood Data (In A and V Zones)

When base flood elevation data has not been provided (A and V Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2, SPECIFIC STANDARDS, and 5.3 FLOODWAYS.

4.3-3 Information to be Obtained and Maintained

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements 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 where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2:
 - (i) Verify and record the actual elevation (in relation to mean seal level), and
 - (ii) Maintain the floodproofing certifications required in Section 4.1-2(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities, 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 said watercourse so that the flood carrying capacity is not diminished.

4.3-5 Interpretation of FIRM Boundaries

Make interpretations where needed, as to 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 interpretation as provided in Section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 Appeal Board

- (1) The Planning Commission as established by the Depoe Bay Zoning Ordinance shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the city, or any taxpayer, may appeal such decision to the Planning Commission, as provided in the Depoe Bay Zoning Ordinance .
- (4) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) 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,
 - (xi) 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.
- (5) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The city planner shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

4.4-2 Conditions for Variances

- (1) 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 items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
 - (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (iii) 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 as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.
 - (6) 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.
 - (7) 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 other variance criteria except 4.4-2(1), and otherwise complies with Sections 5.1-1 and 5.1-2 of the GENERAL STANDARDS.
 - (8) Any 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.

5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

5.1-1 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) 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).

5.1-2 AH Zone Drainage

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

5.1-3 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) 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.

5.1-5 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) 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 50 lots or 5 acres (whichever is less).

5.1-6 Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), 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 grade in these zones may result in higher insurance rates.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

5.2-1 Residential Construction

- (1) 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.
- (2) 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 be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (i) 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.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

5.2-2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; 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, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2);
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);
- (5) 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 floodproofed to the base flood level will be rated as one foot below).

5.2-3 Manufactured Homes

- (1) All manufactured homes to be placed or substantially improved on sites:
 - (i) Outside of a manufactured home park or subdivision,
 - (ii) In a new manufactured home park or subdivision,
 - (iii) In an expansion to an existing manufactured home park or subdivision, or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated to a minimum 18 inches (46 cm)¹ above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- (2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:
 - (i) The finished floor of the manufactured home is elevated to a minimum of 18 inches (46 cm) above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

5.2-4 Recreational Vehicles

Recreational vehicles placed on sites are required to either:

- (i) Be on the site for fewer than 180 consecutive days
- (ii) 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
- (iii) Meet the requirements of 5.2-3 above and the elevation and anchoring requirements for manufactured homes.

5.2-5 Below-grade crawl spaces

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 Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) 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 (1) 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

¹ See 2002 Oregon Manufactured Dwelling and Parks Specialty Code, Chapter 3. The code also requires that the top of the dwelling stand be at least 12 inches above BFE.

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 (2) 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 (4) 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 five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used. For more detailed information refer to FEMA Technical Bulletin 11-01.

5.3 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5.4 FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Except as provided in paragraph (3), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (3) Projects for stream habitat restoration may be permitted in the floodway provided:
- (i) The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,
 - (ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - (iii) No structures would be impacted by a potential rise in flood elevation; and,
 - (iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
- (4) New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:
- (i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or
 - (ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:
 - a. As required by **44 CFR Chapter 1, Subpart 60.3(d)(3)**, it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
 - b. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;
 - c. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;
 - d. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;

- e. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and
- f. Any other requirements deemed necessary by the authority having jurisdiction.

5.5 STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground 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:

- (1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- (2) New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - (ii) Together with attendant utility and sanitary facilities, be completely flood proofed 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 as in section 5.2-2(3).
- (3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (4) Recreational vehicles placed on sites within AO Zones on the community's FIRM either:
 - (i) Be on the site for fewer than 180 consecutive days, and
 - (ii) 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
 - (iii) Meet the requirements of 5.5 above and the elevation and anchoring requirements for manufactured homes.

5.6 COASTAL HIGH HAZARD AREAS

Located within areas of special flood hazard established in Section 3.2 are Coastal High Hazard Areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance and state building code, the following provisions shall also apply:

- (1) All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
 - (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and
 - (ii) 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 and 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 (i) and (ii) of this Section.
- (3) 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 Zones V1-30, VE, and V, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- (4) All new construction shall be located landward of the reach of mean high tide.
- (5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, 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 20 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:
 - (i) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - (ii) 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).
- (6) 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.
- (7) Prohibit the use of fill for structural support of buildings.

- (8) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (9) All manufactured homes to be placed or substantially improved within Zones V1-V30, V, and VE on the community's FIRM on sites:
- (i) Outside of a manufactured home park or subdivision,
 - (ii) In a new manufactured home park or subdivision,
 - (iii) In an expansion to an existing manufactured home park or subdivision, or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;
- meet the standards of paragraphs 5.6(1) through (8) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of Section 5.2-3.
- (10) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:
- (i) Be on the site for fewer than 180 consecutive days,
 - (ii) 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
 - (iii) Meet the requirements of Section 4.1-1(Permitting requirements) and paragraphs 5.6(1) through (8) of this section.
- (11) For construction of new essential and new special occupancy structures refer to ORS 455.446 and 447 which states that new essential and new special occupancy structures may not be constructed in the Tsunami Inundation Zone. The Tsunami Inundation Zone would include V, A, and potentially other flood zones. If an exception is granted then the Coastal High Hazard Area construction standards in the model ordinance shall apply to the building of these new structures in the Tsunami Inundation Zone.

Coastal communities should be encouraged to adopt Coastal High Hazard Area standards to all new structures or substantially improved or damaged structures that fall within the Tsunami Inundation Zone.

5.7 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.

Section 3.380. Limited Land Use Overlay Zone L-LU (added 12/3/02 – ORD 260)

1. Purpose: To define the uses allowable and/or standards on a specific area of land more narrowly than allowed by the underlying zone.
2. Regulations:
 - A. The Limited Land Use Overlay shall be applied for, or amended, using the procedures for ordinance and comprehensive plan amendments set forth in Article 9 of the Depoe Bay Zoning Ordinance.
 - B. A Limited Land Use Overlay may be enacted on lands with respect to any area within any zoning category within the City of Depoe Bay zoning jurisdiction.
 - C. The Limited Land Use Overlay can not allow a land use not otherwise allowed in the underlying zone.
 - D. A Limited Land Use Overlay shall comply with all provisions of the Depoe Bay Comprehensive Plan and Oregon Revised Statutes.
 - E. The development standards of the underlying zone shall continue to apply to lands designated as a Limited Land Use Overlay except when specifically made more restrictive.
 - F. Lands within a Limited Land Use Overlay shall be used only for the specific use or uses, or special standards of the overlay zone.
3. General Requirements for Establishing a Limited Land Use Overlay Zone: In addition to the provisions of Section 2 above, a Limited Land Use Overlay Zone must meet the following requirements:
 - A. The area is unique and there are reasons why the limited land use overlay is needed that do not generally apply elsewhere in the city.
 - B. There is a minimum of 100% approval of the limited land use overlay from the property owners within the proposed Limited Land Use Area and minimum 60% approval from those owners within two hundred fifty (250) feet.
 - C. The area must be composed of multiple, contiguous properties.
 - D. Special Standards are required, in addition to limiting the uses, to maintain the character of the area. The Planning Commission may impose such additional standards as may be required for the particular area for which an overlay zone is requested.
 - E. The reasons asserted as a basis for the limited land use application do not arise from a violation of the Zoning Ordinance.
4. Official Zoning Map: Concurrent with the adoption of an ordinance establishing a Limited Land Use Overlay, the official zoning map shall be amended to indicate the subject property is subject to a Limited Land Use Overlay designation.

5. No earlier than the 30th month and no later than the 35th month after the date of adoption of this Ordinance (No. 260), this Ordinance (No. 260) shall be reviewed by the City Council at two public hearings scheduled for the purpose. The hearings shall be held on two separate days at least 30 days apart from each other. The hearings shall be conducted to determine the desirability of continuing the limited land use overlay zone and shall follow any procedure determined to be appropriate by the City Council. If the Council for any reason fails to conduct the hearings described in this section, this Ordinance shall nevertheless continue in full force and effect.
6. In the event that this Ordinance No. 260 is repealed, any limited land use overlay zone adopted prior to such repeal shall continue as a permitted use.

Section 3.410: Planned Development Zone (PD) (amended 4/6/04-ORD 256)

1. Purpose: The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design and development through the application of flexible land development standards. Application of the planned development procedure is intended to:
 - a. Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical and natural resource values and constraints present on a particular site;
 - b. Permit greater flexibility in the siting of buildings and other physical improvements, and in the mixing of housing types, in order to accomplish desirable design objectives;
 - c. Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the comprehensive plan;
 - d. Supersede the provisions of Article 14 when the latter are expressly contrary to a specific provision of Section 3.410, or upon application to and approval by the Planning Commission, provided such approval is consistent with the purpose of this Section 3.410.
2. General Requirements: The following requirements shall govern planned developments:
 - a. A planned development may be established in any zone other than the T-C zone.
 - b. On land subject to an approved planned development, only those uses, structures and other forms of development which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.
 - c. A planned development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 zones may be permitted when compatible with each other and harmonious with adjacent uses.
 - d. Overall residential density shall be as provided for in the applicable use zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses allowed in the underlying zone, but including private common areas.
 - e. No building shall exceed the height allowed in the underlying zone.
 - f. Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.
 - g. In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved preliminary plan, the approved preliminary plan shall control.

- h. A planned development shall have a minimum of two (2) contiguous acres, exclusive of street right of way.
3. Preliminary Plan: The initial step in the establishment of a planned development shall be the submission of a preliminary plan, which shall be reviewed and acted upon in accordance with the provisions of this section:
- a. Preliminary Plan Review Procedure: The procedure for application and review of a preliminary plan, which shall be as set forth in 10.025(3).
 - b. Content of Preliminary Plan: Application for preliminary plan approval of a planned development shall include, in addition to the forms prescribed by the City, a preliminary plan consisting of the following:
 - 1) A site plan map or maps depicting all proposed residential and nonresidential land uses, including typical architectural style, and also including location of all proposed lot or parcel boundaries, if the proposal involves a division of land, all proposed roads and pedestrian access, location of significant natural features such as wetland, streams courses, environmental hazards, and fish and wildlife habitat areas, location of any proposed open space, recreation areas or other common elements, and approximate topography with contour intervals of not more than 10 feet.
 - 2) A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to Depoe Bay Zoning Ordinance (DBZO) Section 3.410(1) including detailed discussion of how the proposal conforms to the requirements of subsection 3.410.3.c., proposed methods of providing sewer, water and other utility services, the method proposed for ownership and maintenance of private common areas, buildings, structures, roads or other facilities, proposed covenants, restrictions and bylaws of any homeowners association, and the proposed time schedule of development, including plans for phasing, if any.
 - 3) Other maps or narrative materials needed to determine compliance with any applicable provisions of the DBZO, as determined by initial review of the application for completeness.
 - c. Preliminary Plan Approval Criteria: Approval by the Planning Commission of a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:
 - 1) All applicable general requirements of Section 3.410 are met;
 - 2) The proposed development is consistent with the comprehensive plan goals and policies, and zoning ordinance provisions for the area;
 - 3) The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedure: Protection of significant natural and cultural features and resources, such as historical, scientific and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities;

protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as, as examples only, suitably located open space, recreation facilities, and other common facilities for inhabitants of the planned development; includes pedestrian oriented development which reduces reliance on automobile travel, and provides similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards;

- 4) In acting to approve a preliminary plan, the commission shall be mindful of the purposes of Section 3.410 by encouraging and promoting creativity and innovation in site planning, and by allowing for flexibility in the application of design standards. The commission may also impose any conditions or limitations it finds necessary to achieve compliance with any provisions of this Section;
 - 5) The proposed development is in substantial harmony with the area at least 250 feet outside the boundary of the proposed development.
- d. Time Limit of Preliminary Plan Approval: Approval of a preliminary plan in accordance with this section is valid for a period of three years from the date the approval is final, after the exhaustion of all appeals. A single one-year time extension may be granted by the Planning Commission only if the development is substantially completed within the three year period. A development is deemed to be substantially completed when utilities, streets and drainage improvements are constructed, including being stubbed to property lines.
4. Master Plan with Phases Review Procedure: Planned Developments may be approved and developed as follows upon application:
- a. Applicant may submit a Master Plan for an entire planned development with a request that the development be approved for development in phases. If a Master Plan is approved, the applicant or its successor shall obtain separate preliminary and final approvals for each phase pursuant to Sections 3.410.2 and 3.410.3, except as modified by Section 3.410.4.
 - b. Applicant shall meet the criteria of Section 3.410(3)(c) for each phase independently of the other phases.
 - 1) The preliminary approval of a Master Plan is valid for a reasonable time to be determined by the Planning Commission as part of the conditions of the approval decision, measured from the date all legal appeals are exhausted.
 - 2) Tentative approval of each phase is valid for a period of three (3) years from the date all legal appeals are exhausted. The Planning Commission may grant a limited time extension only if development of the phase is substantially completed within the three year period. A phase is deemed to be substantially completed when the utilities, streets and drainage improvements are constructed and stubbed to property lines.
 - 3) Each phase must independently comply with laws in effect at the time of its tentative approval.
5. Park, Open Space and Recreation Areas:

Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park or natural land, for use by the residents of the planned community.

6. Final Plan: Upon completion of all conditions and requirements of a preliminary plan, Master Plan, or phase for a Planned Development, application may be made for final approval in accordance with the provisions of this section.
 - a. Final Plan Review Procedure: The procedure for application and review of a request for final plan approval of a preliminary plan, Master Plan or phase for a Planned Development shall be as set forth in 10.025(3).
 - b. Certifications Required for Final Plan Approval: Requests for final plan approval shall be accompanied by the following certifications, as applicable:
 - 1) A copy of all covenants and restrictions.
 - 2) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.
 - 3) As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement.
 - 4) If the planned development involves a division of land, the certifications required by Article 14.
 - 5) Other certifications required as a condition of the preliminary plan approval.
 - c. Final Plan Approval Criteria: The commission shall approve a final plan provided that:
 - 1) The submitted final plan is in substantial conformance with the approved preliminary plan, Master Plan or phase; and
 - 2) All of the certifications required by paragraph (b) have been submitted in proper form.
 - d. Permits: No building permits shall be approved until the effective date of the final approval of the plan.
 - e. Retroactivity: The provisions in Section 3.410 shall not apply to Planned Developments, or phases thereof, which were granted preliminary approval prior to the effective date of this Section, unless said approval expires without applicant having obtained the final approval.

ARTICLE 4. SUPPLEMENTARY REGULATIONS

Section 4.010. Clear Vision Areas. A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and an alley. *(amended 4/6/04-ORD 256)*

1. A clear vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting end of the other two sides.
2. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 3.5 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 eight (8) feet above grade.
3. The following measurements shall establish clear vision areas: *(amended 4/6/04-ORD 256)*
 - a. In a residential zone, the minimum distance shall be thirty (30) feet.
 - b. In all other zones where yards are required, the minimum distance shall be fifteen (15) feet except that when the angle of intersection is less than thirty (30) degrees, the distance shall be twenty five (25) feet.

Section 4.015. Manager / Owner / Caretaker Residence. *(added 10/7/91-ORD 172, amended 4/6/04-ORD 256)* In the M-C and L-I zones, a residence secondary to the main use of the property is allowed for the sole purpose of providing living quarters for the owner, operator or caretaker of a new or ongoing commercial or industrial enterprise, provided that:

- a. The living space shall be located in the same building as the principal use of the property.
- b. Non-owner / manager inhabitation of the living space is prohibited.
- c. The Planning Commission shall review each approval granted under the provisions of this Section annually unless determined otherwise by the Planning Commission.

Section 4.020. Sign Requirements: *(as amended 8/19/80-ORD 71)* See Depoe Bay Sign Ordinance No. 58, amending ordinances 134 & 211.

Section 4.025. Street Vendor Prohibited. *(added 7/7/82-ORD 93, as amended 8/7/95-ORD 222)* No person shall sell any items, including but not limited to food, beverages, flowers, balloons or other items, or offer them for sale, from any street, sidewalk, public right-of-way, or public property within the city limits of the City of Depoe Bay; provided however that items permitted to be sold from a "mobile vending stand" may be sold from public property or public right-of-way which has been closed by motion or resolution of the City Council if the mobile vending stand is doing business in conjunction with a festival/community event. A "festival or community event"

is a temporary use of land for the purpose of providing general community amusement, recognition of historical events or traditions, or celebration of community-wide local products, which are organized by nonprofit organizations and the proceeds of the festival or event are used to promote the purposes of the nonprofit organization or donated to other nonprofit organizations.

Section 4.030. Off-Street Parking and Off-Street Loading Requirements. *(amended 8/19/80- ORD 71, 7/7/82- ORD 92, 7/1/85-ORD 124, 4/6/87-ORD 130, 1/3/89-ORD 145, 10/7/91-ORD 172, 12/2/91-ORD 173, 12/16/96-ORD 234, 4/6/04-ORD 256)*

At the time a new structure is erected, or an existing structure is enlarged, or the use of the structure is changed, off-street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless greater requirements are otherwise established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this ordinance.

1. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.
2. In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the several uses computed separately.
3. Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases or contracts to establish the joint use and hours of operation.
4. Off-street parking spaces for dwellings, hotels, motels, resorts and time-shares shall be located on the same lot or on a lot immediately adjacent to the lot served by such parking.
5. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
6. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved adequately for all-weather use, and shall be adequately maintained. Drainage shall conform to the City's Storm Water Master Plan and a drainage plan shall be approved the City Field Superintendent.
7. Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones, or adjacent to Highway 101, or residential uses shall be designed to minimize visual impacts by use of landscaping or by a fence screened by landscaping.
8. Parking areas used for public or private parking lots under the conditional use in an R-4 zone must have garbage containers available for garbage which may be generated by users of the parking lot. Such garbage containers must be emptied on a regular basis and not less than weekly. Parking lots shall be posted with the following sign: "NO CAMPING OR OVERNIGHT USE" and shall have their hours posted. Parking lot hours shall not extend

beyond 10:00 p.m. or open earlier than 4:00 a.m. If the property owner suffers, permits or fails to enforce the parking prohibitions, the Planning Commission may review the Conditional Use Permit.

9. Parking spaces along the outer boundaries of a lot shall contain a curb or bumper rail at least four inches high and set back four (4) feet from the front of the space.
10. Artificial lighting may be used in parking areas provided it is of low intensity, is pointed generally downward, and is shielded if necessary so as to not create light or glare offsite.
11. Except with respect to approved driveways, required off-street parking areas shall not be provided in the required front or street side-yard areas in a residential zone.
12. Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.
13. Passenger loading. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.
14. Loading of merchandise, materials or supplies. Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths of sufficient numbers and size to handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.
15. All spaces shall be permanently and clearly marked. Markings which guide safe and efficient traffic flow shall also be permanently and clearly marked. All markings shall be replaced regularly to remain visible.
16. All improvements, including surfacing, storm water management, striping and landscaping, shall be fully maintained for the life of the parking facility. Failure to maintain such improvements shall constitute a violation of this ordinance.
17. All parking lots shall be designed with spaces for handicapped drivers as provided for in the Uniform Building Code.
18. The clear vision requirements set forth in Section 4.010 shall apply to all points where parking lot driveways intersect with a public street.
19. Off-Street Parking Space Requirements:
 - a. Any single or multi-family residential use including condominium or time share: Two (2) spaces per unit.
 - b. Recreational vehicle park: Three (3) spaces for each two RV spaces.
 - c. Tourist accommodation: One (1) space for each guest accommodation.

- d. Hospital: Three (3) spaces for each two (2) beds.
- e. Nursing home, residential facility, residential home, retirement home: One (1) space for each three (3) beds.
- f. Church, auditorium, meeting place, theater, gymnasium, mortuary or similar place of assembly: One (1) space for each 50 square feet of floor area used for assembly.
- g. Library, private museum, art gallery or similar facility: One (1) space for each 300 square feet of floor area.
- h. Dance hall, skating rink, pool hall, aquarium, or similar commercial amusement enterprise: One (1) space for each 100 square feet of floor area.
- i. Bowling alley: Five (5) spaces for each lane.
- j. Retail store not handling bulky merchandise: One (1) space for each 200 square feet of floor area.
- k. Service or repair shop; retail store handling bulky merchandise such as automobiles, furniture, boats, marine equipment, etc.; automobile service station, feed and seed; heavy equipment; lumber or building supplies; or similar uses: One (1) space for each 600 square feet of sales, storage or repair area.
- l. Financial institution, laboratory or office: One (1) space for each 300 square feet of floor area.
- m. Medical or dental clinic: One (1) space for each 200 square feet of floor area.
- n. Warehouse, storage and wholesale business: One (1) space for each 2000 square feet of area.
- o. Manufacturing, fabrication, assembly, processing, cabinetry or similar use: One (1) space for each 1000 square feet of floor area.
- p. Eating and drinking establishment: One (1) space for each 100 square feet of serving area.
- q. Day care, nursery school, kindergarten, elementary and middle schools and similar uses: Two (2) spaces per classroom or instructional area plus requirements for offices, places of assembly, etc.

- r. High schools: Eight (8) spaces per classroom or instructional area plus requirements for offices, places of assembly, etc.
- s. Golf courses: Five (5) spaces per hole plus the 75% the ancillary parking requirements.
- t. Miniature golf: 1.5 spaces per hole.
- u. Animal hospital or kennel: One (1) space per 500 square feet.
- v. Public or private swimming pool: One (1) space per 100 square feet.
- w. Personal or business service: One (1) space per 250 square feet.
- x. Laundromat: One (1) space per three machines.
- y. Marina or other moorage facility: One (1) space per boat mooring space.

20. The required size of parking spaces, aisles, driveways and similar design features are set forth in Diagram A. Required landscaping areas are not shown.

Section 4.040. Distance from Property Line. In areas where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three (3) feet from the property line.

Section 4.050. Exterior Lighting. Exterior lighting for uses in commercial and industrial zones shall be located in such a manner so as not to face or shine directly onto a lot in a residential zone, street, or highway.

Section 4.060. General Provisions Regarding Accessory uses, Fences, Retaining Walls, Hedges and Decks. (amended 8/19/80-ORD 71, 10/7/91-ORD 172, 12/2/91-ORD 173, 4/6/04-ORD 256)
An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

1. An accessory structure not used for human habitation and separated from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided it is not closer to a property line than the minimum setback required for the zone.
2. One single-wide manufactured dwelling or recreational vehicle may be located as a temporary accessory use to a legally established dwelling under medical hardship provisions subject to the following requirements:
 - a. That the medical hardship be established in writing by a medical doctor;
 - b. That the placement of the unit comply with all residential setback requirements;

- c. That a sight-obscuring fence or ornamental hedge may be required to screen the accessory use from other uses off the property;
 - d. That all appropriate permits, such as placement permits and those required by the City or special districts for water and sewer service be obtained prior to moving the unit on the property;
 - e. That the mobile home or travel trailer be disconnected from all services and removed as appropriate when the hardship no longer exists;
 - f. That the use be reviewed annually to insure compliance with the above.
3. In a residential area, fences, hedges and walls extending above the finished grade of an approved dwelling may be located within required yards, but shall not exceed three and one-half (3 ½) feet in height in any required front yard which abuts a street other than an alley or any street side yard, or as otherwise provided for in this ordinance.

Fences constructed on vacant lots or parcels may be located anywhere within a parcel's boundary lines but shall not exceed a height of six (6) feet and shall not interfere with clear vision areas. When dwelling construction begins changes to these fences shall be required, if necessary, to comply with the previous paragraph.

4. Unenclosed decks may be located within required yards except for clear vision areas, but shall encroach no further than one-third (1/3) of the required setback distance.
5. This provision is to protect the City and adjacent property owners from undesirable, potentially hazardous, and unnecessary development through the use of retaining walls.
- a. No retaining wall shall be constructed for the purpose of back filling to artificially heighten a lot's ground elevation to improve views from the subject property.
 - b. No retaining wall shall be constructed to elevate the grade of a lot unless necessary to establish a use or structure permitted in the underlying zone.
 - c. Proposed retaining walls over eight (8) feet in height shall be reviewed by the Planning Commission at a public hearing, following the Conditional Use procedure. Approval of any retaining wall in excess of eight (8) feet in height shall be based on the following findings:
 - 1) The retaining wall is reasonably necessary for construction of a structure or to establish a use permitted in the underlying zone.
 - 2) The retaining wall will not be materially detrimental to adjacent or nearby property, or to public safety or welfare.
 - 3) The retaining wall does not preclude future access to adjacent undeveloped property.
 - 4) If the retaining wall is a component of a building's foundation, it will comply with setback requirements from side and rear property lines.
 - 5) The retaining wall does not conflict with any other provisions of this ordinance.

Section 4.100. Approval of City Inspector. (amended 8/19/80-ORD 71) No building shall be erected, altered, enlarged, or rebuilt or moved unless it has city approved domestic water supply and sewage disposal.

Section 4.110. Review of Fire Department. With the exception of single-family detached dwellings, all development proposals involving structures shall be submitted to the Depoe Bay Fire Department for review, comment and recommendation. If no response is received within ten (10) days from the Fire Department, the city may proceed as it deems appropriate.

Section 4.200. Building Permit Approvals. No building or structure shall be erected, enlarged, altered, rebuilt, remodeled or moved unless in conformance with the requirements of all state and local ordinances applicable to the structure and the land upon which it is proposed.

Section 4.300. Development Guidelines. In order to protect the quality of the City of Depoe Bay which makes it a desirable place in which to live, the Planning Commission may recommend and the City Council may adopt as ordinances such development guidelines and accompanying maps as may be necessary for (1) the conservation and development of natural resources, (2) the protection of areas having historical or aesthetic importance, (3) the safe and desirable use of geologically hazardous areas, and (4) utilization and development of any other air, land, or water uses which may have significant impact on the quality of the City of Depoe Bay. Such development guideline ordinances will be made as addendums to this ordinance. Areas to which such ordinances apply will be so designated on the zoning maps of the city.

Section 4.400. Standards and Requirements for Condominiums and Time Share Projects. *(added 4/6/87-ORD 130)* Each condominium and time share project shall comply with the following additional standards and requirements.

1. An association of unit owners shall be organized to serve as a means through which the unit owners shall administer, manage and operate the condominium, as required by the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
2. Each time share project shall establish an owners' association or designate another form of managing entity, as required by the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
3. The owners' association for condominiums, or the owners' association or managing entity for time share projects, shall maintain on record with the City Recorder of the City of Depoe Bay the name and address of the representative or agent of the owners' association or a natural person as managing entity. That designated person shall receive all notices or orders by the City of Depoe Bay to the owners' association or managing entity, and shall also thereby be as the agent of the owners' association or managing entity for purposes of service of process.
4. The person designated by the owners' association or managing entity, as provided above, shall file, from time to time, any required reports or records with the City of Depoe Bay as may be required, including but not limited to the transient room tax ordinance, Ordinance #22.

Section 4.500. Temporary Placement of a Manufactured Dwelling. *(added 9/16/91-ORD 163, amended 12/2/91-ORD 173)* A manufactured dwelling may be temporarily placed upon an individual lot upon compliance with the following conditions:

1. The lot owner shall file an application with the City of Depoe Bay, requesting a permit to temporarily place a manufactured dwelling upon the lot. The applicant shall certify that the applicant is diligently undertaking efforts to place the manufactured dwelling permanently upon a lot within the City of Depoe Bay, that the lot upon which the manufactured dwelling will be placed both temporarily and permanently are properly zoned for placement of a manufactured dwelling, that the applicant is the owner or vendee purchaser under contract of the manufactured dwelling, and that if the temporary placement permit is granted, the owner shall comply with the conditions of this Section and with such additional conditions as may be imposed by the Planning Commission upon issuance of the temporary placement permit.
2. The temporary placement of a manufactured dwelling is permitted only in those zones which permit placement of manufactured dwellings; a single-wide manufactured dwelling may be temporarily placed only in an R-3 zone.
3. The temporary placement permit shall be valid for a period of sixty (60) days from the date of issuance of the temporary placement permit. If the manufactured dwelling is not permanently sited upon a lot within the City of Depoe Bay prior to expiration of the sixty (60) day period of the temporary placement permit, the owner may apply to the Planning Commission for an additional sixty (60) days for temporary placement of the manufactured dwelling.
4. No utilities other than electrical shall be connected to the manufactured dwelling nor shall any person occupy the manufactured dwelling.
5. The applicant shall comply with other requirements of this Zoning Ordinance, including but not limited to setback requirements, flood plain development, and geologic setbacks and requirements.
6. Notwithstanding Section 10.030 - 10.070, the Planning Commission shall not be required to hold a public hearing prior to issuance of the original temporary placement permit if the application complies with all provision of Section 4.500. In the event the applicant applies for an extension, the Planning Commission shall hold a public hearing pursuant to Section 10.050.
7. The applicant shall pay the applicable action fee as provided in Section 10.040 and by resolution of the City Council.

Section 4.600. Design Features for Single-Family Dwelling. *(added 12/6/93-ORD 194)*

1. All single-family dwellings located within a residential zone (except for manufactured homes located within a manufactured home subdivision or a 'mobile home park') shall utilize at least two of the following design features:
 - a. Dormers
 - b. Recessed entries
 - c. Cupolas
 - d. Bay or bow windows
 - e. Window shutters

- f. Off-sets on building face or roof (minimum 12 inches)
 - g. Gables
 - h. Covered porch entry or unenclosed deck
 - i. Pillars or posts
 - j. Tile, shake or elongated (not corrugated) metal roofing
 - k. Horizontal lap siding or shakes.
2. Individual lots shall be residentially landscaped and maintained similar to surrounding neighborhood development. Use of native vegetation shall be encouraged wherever possible.
 3. A driveway having a durable and dustless surface shall be provided.
 4. Single-family dwellings and other improvements shall be developed in compliance with applicable provisions set forth in the City Zoning Ordinance.

Section 4.650. Transient Occupancy of Dwelling Units. *(added 12/16/96-ORD 234 as 4.600)*

1. The purpose of this section is to protect the character of the City's residential neighborhoods by prohibiting transient occupancy of dwelling units therein and by implementing the City Comprehensive Plan Policies relating to housing and transient occupancy. Use of dwellings for transient occupancy purposes has unmitigatable adverse impacts on surrounding residential uses and is therefore prohibited, except as provided for in these zoning regulations. The city finds that transient occupancy of dwelling units has been permitted in the past and that the lawful use of property may continue subject to certain standards contained in these zoning regulations. These regulations include, for transient use of dwellings located within a residential zone, an amortization period of four years and the provision for individualized determinations that lawful investments specifically committed to transient occupancy have been made.
2. Article 7 (Non-conforming Uses) shall not apply to uses and structures subject to this section.
3. No person shall occupy, use, operate, or manage, nor offer or negotiate to use, lease or rent a dwelling unit in any residential zone for transient occupancy except a dwelling lawfully used for transient occupancy purposes on the effective date of this ordinance (12/16/96) which meets the requirements of Section 4.601.
4. In the commercial or industrial zones the rental of a dwelling, or portion thereof, for transient occupancy shall be considered a tourist accommodation and subject to the requirements for tourist accommodations, including compliance with the requirements of Section 4.601.
5. The use of dwellings or residences within any residential zone for transient occupancy purposes shall be deemed terminated upon the effective date of this ordinance (12/16/96) unless the provisions of Section 4.601 are met. Persons who fail to register and substantiate the non-conforming use of their property, within the period described, shall be precluded from further use of their dwellings for transient occupancy under the provisions of these zoning regulations.

Section 4.651. Transient Occupancy Business Registration/Amortization of Short-Term Rentals of Dwellings. (added 12/16/96-ORD 234 as 4.601)

1. Any person who rented a dwelling unit located within any residential zone to transients between December 1, 1995 and the effective date of this Ordinance No. 234, or who otherwise claims a non-conforming transient occupancy use, shall establish the non-conforming transient occupancy use status by substantiating their actual use of the property for transient occupancy purposes. Evidence, of a type which provides written documentation and is more than a statement of use, shall be provided to the City within 60 days of the effective date of Ordinance (234), together with the transient occupancy business registration required in subsection (b) below.
2. No person shall operate, manage, or maintain a tourist accommodation or be the agent for the owner or operator for the purpose of assisting in the use or maintenance of a tourist accommodation or dwelling in the transient occupancy business or, during the amortization period of use of dwellings for transient occupancy, dwellings for transient occupancy without registering as a transient occupancy business with the City Recorder. No fee shall be required to register as a transient occupancy business.
3. The City Recorder shall require such information as convenient or necessary for the registration of transient occupancy businesses, including but not limited to the name of the owner, the name of the operator, the address of the structure or building, and that either the business holds a business license to engage in the transient occupancy business or evidence that the structure or building has been used for transient occupancy business during the period from December 1, 1995 to the effective date of this ordinance (12/16/96) or the real property is being held with the expectation of engaging in the transient occupancy business by August 1, 1997. A transient occupancy business license review committee, establishing by resolution or motion of the City Council, shall review the registration application and determine whether the application for registration substantiates transient occupancy use for the required period. Written notice of the decision shall be mailed to the registration applicant. Decisions of the committee may be appealed to the City Council within 20 calendar days of the date of mailing of the written decision of the committee.
4. Persons shall be permitted 60 days from the date of adoption of this ordinance (12/16/96) amendment to register as required above. Within 15 days following the adoption of this ordinance (12/16/96), the City Recorder shall give notice of the adoption of this ordinance and the requirement to register as a transient occupancy business by the following:
 1. Mailing a copy of this ordinance and a form for registration as a transient occupancy business to all persons or businesses who have filed a transient room tax report within the past 8 months.
 2. Posting a notice, in the form prescribed below, at the public bulletin board at the Depoe Bay Post Office and at the Depoe Bay City Hall.
 3. Including a notice, in the form prescribed below, with the next water/sewer billing.
 4. Publishing notice of adoption of this ordinance (234) in the News Times and News Guard newspapers, legal notice section, with the following text in the notice: Notice to all Persons who rent or intend to rent to transients, tourists or short-term (less than 30 days) renters or lodgers. The City of Depoe Bay has adopted Ordinance No. 234, which restricts or prohibits the rental or occupancy of lodging facilities or dwellings to short-term renters, transients or lodgers. Registration as a transient occupancy business is required by February 14, 1997. A copy of the ordinance and registration form may be obtained: a.) In person at the Depoe Bay City Hall, 570 SE Shell Ave., Depoe Bay, OR 97341, during regular business hours. b.) By mailing a request for the "transient occupancy business restrictions and registration" to the

Depoe Bay City Recorder, PO Box 8, Depoe Bay, OR 97341. c.) By telephone (541-765-2361), requesting the “transient occupancy business restrictions and registration” be mailed to you. Failure to register shall result in the cessation of the transient occupancy business. There is no fee for registering.

5. The transient occupancy business shall be in compliance with the city business license and the transient room tax ordinances, and shall not be delinquent with each of the requirements of these ordinances.
6. The non-conforming use of dwellings for transient occupancy shall be amortized within a four year period from the effective date of this ordinance. At the conclusion of the amortization period, all transient occupancy of dwelling units shall be prohibited, whether or not such use existed prior to the adoption of this ordinance unless hardship relief has been granted pursuant to subsection (7) below.
7. A hardship provision is established for property owners who can substantiate that an investment made exclusively in the non-conforming use of a dwelling for transient occupancy cannot be adequately amortized within the period of time specified in subsection (6) above. The purpose of this hardship provision is to permit those who have made substantial investments in transient occupancy improvements to dwellings structures to recover their investment, but only in those cases in which the improvements have committed the structure to transient occupancy, as opposed to long-term residential use. If the improvement may be utilized both for transient occupancy and long-term residential use, this provision shall not apply. An application for hardship relief under the provisions of this section shall also provide information on the specific investments that were made with respect to the non-conforming, short-term rental use of the property. Anyone seeking hardship relief shall file an application for such relief with the City Recorder not later than 60 days from the effective date of this ordinance. The City Council shall determine, based on accepted accounting practices, whether there is a basis for hardship relief and the establishment of a longer amortization period. The hearing upon the hardship petition shall be in accordance with the procedure set forth in section 10.050(2). If the City Council determines that a longer amortization period is warranted, it shall establish a period of time that permits the reasonable amortization, based on accepted accounting practices, of the investment of the property owner. At the conclusion of that specific amortization period, the transient occupancy of the dwelling shall be terminated. If the City Council determines that a longer amortization period is not warranted by nature of the investment, the amortization period specified in subsection (6) shall be met. Persons who fail to file an application within the time period established in this section shall be precluded from applying for hardship relief under the provisions of these zoning regulations.

Section 4.700. Siting Standards for Manufactured Homes. In addition to compliance with provisions set forth under Article 4, Section 4.600: *(added 12/6/93-ORD 194)*

1. A manufactured home shall be permitted on individual lots in all residential and commercial zones permitting single-family dwellings, subject to the following standards:
 - a. The manufactured home shall be multi-sectional and enclose an area of not less than 1,000 square feet; except, in the R-3 zone a single-wide or multi-sectional home enclosing a floor area of not less than 700 square feet shall be permitted. A

manufactured home shall not be considered multi-sectional (double-wide or larger) by virtue of having a tip-out section.

- b. The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with skirting of concrete, concrete block, or masonry. Where the building site has a sloped grade, no more than twelve (12) inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement or a garage, the twelve (12) inch limitation will not apply.
- c. The manufactured home shall have a pitched roof except that no standard shall require a slope greater than a nominal three (3) feet in height for each twelve (12) feet in width.
- d. The manufactured home shall not have corrugated metal but shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City Planner or Planning Commission.
- e. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss levels to the performance standards required of single-family dwellings constructed under the state building code as defined in the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
- f. The manufactured dwelling shall have a driveway, which driveway shall have a durable and dustless surface.
- g. Manufactured dwellings shall not be sited adjacent to any structure listed on the register of Historic Landmarks and Districts.

Section 4.800 Protection of Streams, Ponds, Wetlands and Riparian Areas

(added 4/6/04-ORD 256, amended 3/21/07-ORD 278)

1. Purpose: The purpose of this Section is to provide procedures necessary to secure the desirable attributes of the city from depletion by recognizing the value of streams, ponds, wetlands, and riparian vegetation for fish and wildlife habitat, maintenance of water quality and quantity, alleviation of flooding hazards, storm water control, recreation and aesthetics, and to provide for open space. Protection of the natural drainage ways as an integral part of the City environment in accordance with the Depoe Bay Local Wetlands and Riparian Inventory (2004) (LWI) is also important in order to manage stormwater drainage, minimize maintenance costs, and protect properties adjacent to drainage ways. *(amended 3/21/07-ORD 278)*
2. Application: The provisions of Section 4.800 shall apply to the streams, significant wetlands, ponds, and riparian areas identified in the Comprehensive Plan's LWI. The provisions of Section 4.800 shall also apply to existing streams, significant wetlands, and riparian areas that are not yet identified in the LWI. The provisions of Section 4.800 are to be applied in conjunction with the provisions of the underlying zone and are also subject to the applicable provisions of Articles 6, 7, 8, 9, 10, 13 and Sections 3.360, 3.370, and 4.900. Where the provisions of Section 4.800 and the underlying zone conflict, the more restrictive regulations shall apply. Forestry activities subject to the riparian regulations of the Oregon Forest

Practices Act are exempt from regulation under Section 4.800. Forestry activities not subject to the riparian regulations of the Oregon Forest Practices Act are subject to regulation under Section 4.800. *(amended 3/21/07-ORD 278)*

2. Procedure for Development Applications: Applicants requesting approval for any development permit in an area which contains a designated resource identified in Section 4.800(4) below shall submit, along with any application, a detailed site plan and written statement demonstrating how the proposed activities will conform to each of the applicable standards of Section 4.800. The Planning Commission shall review the application in a public hearing and determine if all of the applicable criteria are met. *(amended 3/21/07-ORD 278)*

4. Definitions:
 - a. Drainage Ways: The streams, channels, springs, lakes, ponds, reservoirs, ponding areas, and wetlands indicated in the LWI and the Depoe Bay Storm Water Master Plan maps of existing facilities. *(amended 3/21/07-Ord 278)*

 - b. Fish Habitat: Those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

 - c. Pond: A small body of intermittent or perennial standing water that is a persistent feature of the landscape.

 - d. Riparian Area: The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

 - e. Riparian Corridor: Includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

 - f. Riparian Corridor Boundary: An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation. Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50' inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25' inland (or upland) from the upland edge of the wetland or pond. *(amended 3/21/07-ORD 278)*

 - g. Stream: A channel, such as a river or creek, that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

 - h. Water Area: The area between the banks of a lake, pond, river, or perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

 - i. Wetland: An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

5. Riparian Corridor Protection Standards: *(amended 3/21/07-ORD 278)*
 - a. The actual location of streams, wetlands, ponds, and riparian areas, shall be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the State of Oregon. A report and map shall be submitted which documents the boundaries of the resource and its buffer.

- b. The outer boundaries of the riparian corridor shall be clearly marked in the field, and such markings shall remain visible for inspection until all development on the site is complete.
- c. No filling, grading, excavating, or draining is permitted in a wetland area unless such is performed for restoration purposes. 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 and presented to the City prior to any such work.
- d. The flow from springs, drainages, streams, and other features providing the water necessary to maintain wetlands hydrology, shall not be diminished or substantially increased.
- e. Within the riparian corridor boundary, no grading shall occur, no impermeable surfaces or structures shall be placed, and no vegetation shall be removed or destroyed, except that the following are allowed, provided they are designed and constructed to minimize intrusion into the riparian area:
 - (1) Removal of riparian vegetation necessary for a use that requires direct access to the water.
 - (2) Placement of utilities, drainage facilities, and irrigation pumps.
 - (3) Replacement or enlargement of existing structures with structures in the same location that do not disturb additional riparian surface area.
 - (4) The placement of walking paths and road crossings.
 - (5) Removal of non-native noxious vegetation such as scotch broom, blackberries, and ivy, and replacement with native plant species.
 - (6) Fish and habitat restoration activities approved by Oregon Department of Fish and Wildlife.
 - (7) Removal of vegetation necessary for the development of water related and water dependent uses.
- f. Before any development activity occurs within a riparian corridor, there must be a review and report prepared by a licensed, certified arborist. The arborist's report must be submitted to the City before any development activity occurs. The responsibility for this review lies with the applicant.
- g. 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 and presented to the City before commencement of any of the activities associated with allowed uses which will impact the streams, ponds, wetlands, and riparian areas.
- h. Development activities shall not change the natural drainage or substantially increase the water flow.
- i. Development activities shall not create erosion into the stream, wetland, pond, or riparian area.

6. ~~Wetland Protection Standards:~~ *(deleted 3/21/07-ORD 278 – See Section 5.)*

6. Drainage Way Protection Standards: To prevent new development from significantly increasing the amount or flow rate of surface water runoff destined for the drainage way, any new development or redevelopment proposed on land on or adjoining a drainage way shall:
- a. Avoid filling in, disturbing, or changing the location of the natural drainage way.
 - b. Avoid placing impervious surfaces within 15 feet of the drainage way.
 - c. Not “hardline” roof and perimeter drains into the drainage way, but provide for infiltration or run-off on site before allowing it to enter the natural drainage way.
 - d. For subdivisions, provide for engineered stormwater plans that provide for on-site storm water detention and treatment.

This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

7. Hardship Variances: *(amended 3/21/07-ORD 278)*

- a. Applicability: This section applies to lots existing prior to January 1, 1982 in the Coastal Shorelands Overlay Zone or along North and South Depoe Bay Creeks, or prior to January 1, 2001 in other areas of Depoe Bay.
 - b. Where a minimum building footprint of less than 800 square feet would result from application of the rules of this section, reduction or removal of the restrictions under this section can be granted to allow the building of a structure within such a building footprint through the variance procedure. Applicants for variance from this section should demonstrate, in addition to the criteria found in the variance ordinance (Article 8), that intrusion into the required riparian corridor, wetland, or drainage way protection areas has been minimized by maximizing setback variances on property line boundaries away from these resources. Applicants shall consult with a fish biologist regarding impacts to the riparian corridor and stream, and provide that documentation to the City, when requesting intrusion into the required riparian corridor associated with North Depoe Bay Creek or South Depoe Bay Creek.
8. Map Error: If the resource is not located on a subject property, although the inventory map indicates it to be, the applicant for a building permit shall follow the following procedure:
- a. The boundary of the property with proximity to the resource area shall be marked between surveyed property markers with a visible string or tape.
 - b. The applicant shall contact the City Planner and request a site visit.
 - c. The City Planner shall inspect the property and, if the resource is not on the subject property, issue the applicant a note stating the resource is not on the subject property and is exempt from the provisions of this section.

- d. When the extent of the resource area cannot be determined by the City, the applicant shall seek prompt assistance from a natural resource agency in making that determination, or provide a written report from a properly-qualified specialist describing the boundaries of the resource area in relationship to the property boundaries. *(amended 3/21/07-ORD 278)*

Section 4.810 Protection of Publicly Owned Lands *(added 4/6/04-ORD 256)*

1. Application: This section shall apply to all publicly owned lands in Depoe Bay.
2. Standards: Publicly owned lands, including street rights-of-way, shall be evaluated before their disposition as to their possible uses as open space or park land or pedestrian and bike pathways, and wherever possible, be retained for those uses.

Section 4.820 Protection of Coastal Headlands, Areas of Exceptional Aesthetic Resources *(added 4/6/04-ORD 256)*

1. Application: This section's standards shall apply to lands identified as coastal headlands and exceptional aesthetic resources found in the Comprehensive Plan Inventory section entitled "Open Spaces, Scenic & Historic Areas, and Natural Resources", item f.
2. Standards: Development in areas of exceptional aesthetic resources or coastal headlands shall substantially maintain the existing visual character of the areas. The visual character of the area is deemed to be substantially maintained if the following standards are met.
 - a. For Coastal Headlands, Coastal Scenic Areas and the Harbor Area
 - (1) The Coastal Headlands remain in their natural state.
 - (2) The shorelands, cliffs and immediate environs of the Coastal Scenic Areas comply with the requirements of Section 13.080 and 13.081, except that the "Area of Visual Concern" for Whale Cove, Pirate's Cove and the designated faces of North and South Points shall extend 40 feet rather than 25 feet landward from the top of the coastal bluff. In these same areas the outer coverings of structures that will be visible from within the aesthetic resource area, including the roofing materials, are of natural wood materials or designed to look like natural wood materials or are painted or stained in subdued colors.
 - (3) Around the Depoe Bay Harbor and adjacent park, developments are compatible with the existing character of the area and with the atmosphere of the harbor for boats, and are for water dependent uses.
 - (4) Lights from any development are shielded and directed downward so as not to illuminate or cause glare outside of their local area. External lighting on structures, streets, signage or for other uses are restricted to low wattage ground lights less than 12 feet tall.

- (5) All communication and utility lines and structures are either underground or not visible over or around a vegetative buffer.
- (6) Where a permitted use of a lot existing prior to the establishment of this ordinance would be precluded by strict adherence to these requirements, the applicant can ask for an exception to these standards if the applicant meets the following standards:
 - (a) The request is the minimum necessary;
 - (b) Disruption of the visual character of the area has been minimized;
 - (c) That options such as clustering of improvements, maximizing variance setbacks on the sides of the development away from the aesthetic resource, or other design methods to minimize impact have been exercised or are not feasible.

b. For Scenic View Corridors

For the corridor along the west side of Highway 101 between Sunset Street and the bridge, the property owner, whether public or private, maintains vegetation pruned to not obstruct the view. Developments are to be designed to intrude into the view corridor the minimum necessary and at least 15 feet per 100 feet of frontage remains with an unobstructed view.

c. For Forested Corridors

Trees 6 inches in diameter or greater at 4 feet above ground shall be retained within 40 feet either side of the Highway 101 right-of-way from South Point Street south to the city limits. This area may be considered part of the required common space provided in a Planned Development or Land Division.

Trees within 10 feet of a building may be removed providing the building meets all setback provisions. Trees may also be removed where ingress or egress to a development can only be achieved by access across the corridor. The access way must be the minimum width allowable and designed to minimize the amount of intrusion along the corridor (e.g. by alignment perpendicular to the highway).

Within forested corridors, trees may be removed if determined to be unsafe by a registered, certified arborist. If trees are removed due to unsafe conditions, those areas shall be immediately replanted with trees that will reestablish the forested corridor.

d. For Forested Hillside

1. In any plan for a subdivision greater than 3 acres, specific measures are outlined to assure that at least 20% of the area with trees 6 inches or greater at 4 feet above ground shall be protected. These areas shall be mapped in the plan, and may be considered part of the required common space provided in a Planned Development.
2. Where a permitted use of a lot existing prior to the establishment of this ordinance would be precluded by strict adherence to these requirements, the development is the minimum necessary and the forested resource is maintained to the maximum extent

possible.

Section 4.830 Protection of Historic and Archeological Sites *(added 4/6/04-ORD 256)*

1. Application: Sites subject to this section are identified in the Comprehensive Plan Inventory “Open Spaces, Scenic & Historic Areas, Natural Resources”, section i.
2. Standards: These standards shall apply when an archeological site is observed, located or unearthed or there is indication that an archeological site exists or when the City notifies the applicant it is a known site.
 - a. Development in areas with archeological sites shall be conducted in a manner so as to avoid site disturbance to the archeological sites and prevent irreversible loss of archeological resources.
 - b. Development in areas with archeological sites shall comply with the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
 - c. Development on historic sites shall not diminish the value of such sites as historic resources as determined by the Lincoln County Historical Society, the State Advisory Committee on Historical Preservation or other knowledgeable persons or agencies in the identification and preservation of historically important resources.
 - d. Alterations to identified historic structures shall be conducted in a manner so as to maintain the historic value of such structures.

Section 4.900 Clearing, Filling, Excavating, and Grading *(added 4/6/04-ORD 256)*

1. Purpose: The purpose of this section is to assure that during pre-development activities (e.g., clearing a subdivision or a property in preparation for sales to individual home builders) soil disturbance and vegetation removal are kept to the minimum necessary and that soil particles are prevented from moving off the site onto adjoining properties, streets, storm drain systems, or into water ways, wetlands, or other natural areas.
2. Definitions:
 - a. Clearing: the removal of vegetation from a site wherein the root system of the vegetation is disturbed. Clearing, for the purpose of this ordinance does not include gardening activities.
 - b. Erosion: the wearing away of the ground surface as a result of the movement of wind or water.
 - c. Excavation: the mechanical removal of earth material.
 - d. Fill: the deposit of earth material placed by artificial means.
 - e. Grading: the process of changing the topography of the ground surface.

- f. Stream: A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.
 - g. Vegetation: plants of all types, including grasses, ground cover, flowers, bushes, shrubs, trees.
3. Application: This section applies to any pre-development activity within Depoe Bay that:
- a. involves the clearing, grading, filling, or excavation of more than 5,000 square feet of surface area, or
 - b. involves the felling of more than five trees measuring six inches diameter or greater, at four feet height from the ground surface, within a five thousand square foot area, or
 - c. are conducted within areas of geologic hazards, or
 - d. are conducted in areas within 100 feet, measured on the horizontal, of the bank of streams or the top of bank whichever distance is greater, or the mean high tide level of the estuary or ocean.
4. Standards:
- a. Clearing, grading, filling, or excavation of the site shall not be permitted until approval permits have been issued.
 - b. Clearing, grading, filling, or excavation of the site shall be the minimum required to complete the project.
 - c. Prior to site disturbance, markings identifying the limits of clearing, grading, filling, or excavation, and/or safety fencing shall be placed on the site. Such markings or fencing shall remain in place until the clearing, filling, excavating or grading is completed.
 - d. Pre-development in forested areas (areas larger than one (1) acre containing trees measuring six inches diameter or greater, at four feet height from the ground surface) shall maintain a minimum of twenty (20) percent of the trees measuring six inches diameter or greater, at four feet height from the ground surface on the site, which can be in the required setback areas. Maintained trees shall be preserved in tree groves where feasible.
 - e. Erosion prevention measures shall be properly installed as per manufacturers specifications or standards specified in this ordinance to insure that soil does not leave the property or enter surface water. Erosion prevention and sediment control measures shall remain in place until final landscaping is installed and well established.
 - f. Any soil that leaves the site is the responsibility of the property owner and shall be promptly removed from the off-site area, unless that area is owned by the same property owner, and placed back on the site, or properly disposed of.
 - g. The applicant shall specify the tax lot and location where soil and vegetation removed from the site will be taken for disposal, and shall provide evidence that the owner of the site is willing to accept the material.

5. Procedure: Applicants requesting approval for any pre-development activity subject to the provisions of this section shall clearly show on their application at least the following:
- a. Areas where soils and vegetation will not be disturbed.
 - b. Areas where clearing, grading, filling or excavation will occur.
 - c. The location of silt fencing placed along contour lines and constructed to City specified standards.
 - d. A gravel construction entrance constructed to City specified standards.
 - e. The location of natural drainageways and nearby storm drain inlets and the method used to protect the inlet.
 - f. The location of drains, drainage systems, or other outfalls on the property and methods of assuring that soil particles cannot leave the site through these outfall locations.
 - g. If a site lies within a designated geologically hazardous area, contains slopes of 20% or more, or involves the clearing, grading, filling, or excavation, of more than 15,000 square feet of soil surface, the following additional erosion prevention and sediment control requirements shall also apply. In such situations:
 1. all disturbed soils and all soil stockpiles shall be covered between October 1 and March 15 with 2 inch depth of mulch (straw, hay, or bark dust), erosion control blankets or have ground covering (e.g. grass) that is well-established and that provides full coverage of the ground surface, or
 2. shall have an erosion prevention and sediment control plan prepared by a person with experience and training in this field. Such a plan must be submitted to the City and the required measures shown on the plans. Such plans shall describe the qualifications of the person preparing the report and, at a minimum, specify methods to be employed, the timing of ground disturbance, the frequency of inspection during the work period, and the maintenance requirements for each of the control methods used.

ARTICLE 5. EXCEPTIONS

Section 5.010. Projections from Buildings. (amended 4/6/04-ORD 256)

1. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than twenty four (24) inches into a required side yard or more than forty eight (48) inches into a required front or rear yard, nor in any case more than 1/3 the distance into any required yard.
2. Uncovered decks may project no more than 1/3 the distance into any required yard, but covered areas such as porches are not permitted such exception.
3. An access landing no more than 3 feet by 3 feet (9 square feet) and attendant stairway may project into a required side yard provided it is the minimum encroachment necessary to provide safe access, and is no closer than 3 feet to the property line.
4. This section has no application to driveways or other such features that are not projections but are flush to the ground.

Section 5.020. General Exceptions to Lot Size Requirements. (amended 8/19/80-ORD 71, 10/16/95-ORD 225, 4/6/04-ORD 256)

If a legally created lot does not meet the lot size requirements of the zone in which the property is located, the lot may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single family dwelling unit.

Section 5.030. General Exceptions to Building Height Limitations. Chimneys, elevator shaft housings, aerials and flag poles are not subject to the building height limitations of this ordinance.

ARTICLE 6. CONDITIONAL USES

(amended 7/7/82-ORD 92 & 93, 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173, 4/6/04-ORD 256)

Section 6.010 Purpose. Certain types of uses require special consideration prior to their being permitted in a particular zone. The reasons for requiring such special consideration include, among others, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the uses, and the effect such uses have on adjoining land uses and on the growth and development of the City as a whole. All uses permitted conditionally possess unique and special characteristics making impractical their inclusion as outright uses in many of the various zones herein defined. Location and operation of designated conditional uses shall be reasonably compatible with adjacent uses and authorized only by issuance of a Conditional Use Permit.

Section 6.020 Authorization to Grant or Deny Conditional Use Permit.

Conditional uses listed may be permitted, enlarged or altered upon authorization by the Planning Commission in accordance with the standards and procedures set herein.

1. In taking action on a conditional use permit application, the Planning Commission may permit or deny the application.
2. In approving a conditional use request or the modification of a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Article, additional conditions which are considered necessary to protect the best interests of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:
 - a. Increasing the required lot size or yard dimensions.
 - b. Limiting the height of buildings.
 - c. Controlling the location and number of vehicle access points.
 - d. Increasing or decreasing the street width.
 - e. Increasing the number of required off-street parking spaces.
 - f. Limiting the number, size, location and lighting of signs.
 - g. Requiring fencing, screening, landscaping, berming or other facilities to minimize impacts on adjacent or nearby property, to a height appropriate for the facility as approved by the Planning Commission.
 - h. Designating sites for open space.
 - i. Setting a time limit for which the conditional use is approved.
 - j. Site reclamation upon discontinuance of use.
 - k. Requiring a waiver of remonstrance.
 - l. Limiting hours of operation.
 - m. Determining the appropriate location, direction and intensity of lighting.
3. In the case of a use existing prior to and classified in the Depoe Bay Zoning Ordinance as a conditional use, a change in use or lot area or an alteration of structure shall conform with the requirements for conditional use.
4. The Planning Commission may require, or the City may require, that an applicant obtaining a conditional use permit furnish the City with a performance agreement of up to the value of the cost of the improvement to be guaranteed by such agreement, in order to assure that

the conditional use is completed according to the plans as approved by the Planning Commission.

Section 6.030 Building Permit for an Approved Conditional Use. Building permits for all or any portion of a conditional use shall be issued only on the basis of the plan as approved by the Planning Commission. Any substantial change in the approved plan shall be re-submitted to the Planning Commission as a new application for a conditional use.

Section 6.040 Time Limit on a Conditional Use Permit. Approval of a conditional use shall be void two (2) years after the effective date of the decision if the authorized development action is not initiated in that period. As used in this subsection, "initiated" means that building permits or other necessary approvals have been secured and exercised or maintained valid, or, if no such approvals are required, that the authorized use has been established.

Section 6.050 Revocation of a Conditional Use Permit. Any permit granted hereunder shall be subject to revocation by the Planning Commission if the application includes or included any false information, or if it is determined that the conditions of approval have not been complied with or are not being maintained, or the conditional use becomes detrimental to public health, safety or welfare.

In order to consider revocation of a conditional use permit, the Planning Commission shall hold a public hearing as prescribed under Section 10.050 of this ordinance in order for the permit holder to show cause why such permit should not be revoked. If the Planning Commission finds that the conditions of permit approval have not been complied with or are not being maintained, a reasonable time shall be given for rectification, and if corrections are not made within that time, revocation of the permit shall become effective. The Planning Commission shall revoke the permit, specifying the effective date of such revocation.

Section 6.060 Reapplication Limit. Reapplication for conditional use permit cannot be made within one (1) year after revocation or denial, except that the Planning Commission may allow a new application if, in its opinion, new evidence or a change in circumstances warrants it.

Section 6.070 Standards Governing Conditional Uses. In addition to the standards of the zone in which the conditional use is located and other standards of this ordinance, conditional uses shall meet the following standards:

1. The site under consideration is suitable for the proposed use considering:
 - a. The size, design and operating characteristics of the use.
 - b. The adequacy of transportation access to the site.
 - c. The natural and physical features of the site such as general topography and natural resource values.
 - d. The proposed use is compatible with existing and permitted uses on adjacent lands, considering the factors in paragraph (a) of this subsection.
 - e. Any lighting provided shall not shine or glare onto adjoining streets or properties. Suggest using lights of low stature with shielding. The applicant shall demonstrate through a lighting plan that this standard is met.
 - f. Landscaping shall be designed to provide adequate vegetative cover.

2. Special setback requirements:
 - a. Buildings and pens, which are a part of kennels and animal hospitals, and active recreation use areas which are a part of outdoor commercial amusement or recreation establishments, shall be located no closer than seventy five (75) feet from a residential zone.
 - b. Clubs, lodges, or fraternal organizations in an R-4 zone, and community swimming pools and buildings housing recreational facilities in residential zones, shall be located no closer than thirty (30) feet from any other lot in a residential zone.
3. Standards for Cemeteries: Land used or intended to be used for the burial of the dead. Cemeteries may include columbarium, crematoria, mausoleums and mortuaries within their boundaries.
 - a. The minimum lot area for earthen burial purposes only shall be two (2) acres.
 - b. The minimum lot size when a columbarium, crematorium, mausoleum or mortuary is included in the cemetery shall be five (5) acres.
 - c. Cemeteries shall be landscaped and there shall be a buffer as determined by the Planning Commission.
 - d. A plat of the cemetery must be recorded in accordance with the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
 - e. No cemetery lots shall be sold prior to development and approval of an irrigation system for grounds maintenance.
 - f. The maximum sign area shall be twenty (20) feet.
 - g. All uses must comply with the applicable state standards.
4. Standards for day care facilities: Day care facilities are permitted subject to the following:
 - a. The minimum front and rear yards shall be twenty (20) feet.
 - b. The minimum side yard shall be ten (10) feet.
 - c. All State and County licensing and Health Department requirements must be met.
 - d. There shall be a maximum lot coverage of forty (40) percent.
 - e. The minimum lot area for day care facilities in a residential district or adjacent to a residential district shall be a minimum ten thousand (10,000) square feet.
 - f. The Planning Commission may require a fenced outdoor play area be provided.
 - g. Child care provided at a public or private school for before and/or after school care, exclusively for students affiliated with the school, is not subject to the requirements of this section.
5. Standards for drive-in or drive-up establishment:
 - a. Entrances and exits. Access shall be determined based on a site review which considers the following:
 - b. Site size;
 - c. Road classification;
 - d. Sight distance and allowed MPH;
 - e. Adjacent development.
 - f. Driveway entrances and exits shall be clearly marked.
 - g. Drive-in facilities located in the parking lot on part of a larger commercial center shall not have separate access points to the street and shall utilize the center's access points.

- h. Lighting, sign illumination and height, and hours of operation may be restricted to insure compatibility with surrounding land uses.
6. Standards for golf courses. A golf course is an area of land with highly maintained turf laid out for the game of golf, generally with a series of nine (9) or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. For the purposes of this section, a golf course includes executive golf courses and Par 3 courses. A golf course does not include pitch and putt golf courses, miniature golf courses and driving ranges.
- a. The course shall be situated so that it does not create any hazards to existing developed properties.
 - b. The maximum sign area shall be thirty five (35) square feet.
 - c. Required minimum setbacks to any primary structure shall be one hundred (100) feet.
 - d. When driving ranges are to be included as part of the golf course:
 - 1) Hours of operation shall be limited so that outdoor lighting is not required; or
 - 2) The range shall be located in such a manner that the lights do not shine outside the perimeter of the golf course.
 - 3) Screen over six (6) feet in height shall be located at least one hundred (100) feet from the property line.
 - e. Accessory uses to a golf course include but are not limited to parking, maintenance buildings, cart storage and repair, pro shop, driving range, and eating and drinking facilities.
7. Standards for home occupation:
- a. The home occupation shall be secondary to the main use of the property as a residence.
 - b. The home occupation shall be limited to either an accessory structure or to not over twenty five (25) percent of the floor area of the dwelling. If located within an accessory structure, the home occupation shall not utilize over six hundred (600) square feet of floor area.
 - c. No person other than members of the immediate family residing in the dwelling is to be engaged in the home occupation.
 - d. No window display and no sample commodities displayed outside the building shall be allowed. One unlighted sign not exceeding one and one-half (1 ½) square feet in area shall be permitted. The sign shall either be attached to the exterior of the building, placed in a window of the building, or, if detached from the building, shall not be located in a required front or street side yard.
 - e. No on-site sale of or stock commodities, kept or purchased for sale, which are not produced on the premises shall be allowed.
 - f. The home occupation shall not interfere with the existing uses on the property on which it is located, or the existing or permitted uses on adjacent properties.
 - g. No materials or mechanical equipment shall be used which is detrimental to the residential use of the dwelling or adjoining dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.
 - h. Business related vehicular or pedestrian traffic shall not create unreasonable congestion in the neighborhood.
 - i. No materials or commodities shall be delivered to or from the residence which are of such bulk or quantity as to create undesirable traffic or congestion.

- j. No parking of customer's vehicles in a manner or frequency so as to cause disturbance or inconvenience to nearby residents, or so as to necessitate off-street parking shall be allowed.
- k. Nothing in this section shall authorize the permitting of construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be, or is established.
- l. No noise, lights, dust, smoke, odors, electromagnetic frequencies generated which interferes with surrounding residential or commercial uses. i.e.; telephone, television, radio, computer.
- m. No storage or use of any materials which present an increased risk of hazard or danger (i.e. explosion, pollution generation, fire) to the dwelling, the premises or surrounding structures as compared to domestic use products found within dwellings shall occur.
- n. A City business license is obtained and maintained in good standing for the location.

8. Standards for mini-storage:

- a. The plan for the mini-storage operation, including signs, structure elevations, painting, plot plan and materials, shall be submitted for review and approval.
- b. Each individual space for rent or sale shall be less than five hundred (500) square feet.
- c. Mini-storage shall be limited to dead storage. Outside storage shall be limited to boats, recreational vehicles and similar vehicles placed within a designated, dust-free surfaced area surrounded by a sight-obscuring six (6) foot fence.
- d. Yards shall be permanently landscaped and yard dimensions adjacent to residential zones shall be the same as within the residential zone.
- e. One parking space for each twenty five (25) cubicles located at the project office shall be required for use of prospective clients.
- f. Sight-obscuring screening shall be required to a height appropriate for the facility as approved by the Planning Commission, and shall be accomplished with vegetation, or fencing landscaped with vegetation, to minimize impacts on adjacent properties.
- g. The traffic lane shall be twelve (12) feet wide and have a ten (10) foot parking lane except where the traffic lane does not serve storage cubicles. All areas providing for vehicle access, parking and movement shall be improved to minimum public road standards.
- h. Change of use to another use such as retail sales or repair services shall require re-application and conformity to applicable state laws and ordinances.
- i. An on-site caretaker or 24-hour on-site manager may be permitted.
- j. There shall be only one access from each adjacent street.
- k. Outside lighting may be required for all structures.

9. Standards for mobile home/manufactured dwelling and recreational vehicle parks. A mobile home/manufactured dwelling park or recreational park may be permitted as a conditional use, if authorized in the underlying zone, if it further meets the requirements of the applicable statute of the latest ORS and the Standards of the Oregon Board of Health. In addition, the following minimum standards shall apply: *(amended 5/4/10-ORD 287)*

Mobile Home/ Manufactured Dwelling Park R-3 Zone Vehicles	Mobile Home/ Manufactured Dwelling Park Other Zones	Recreational
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- | | | | |
|--|--------------|--------------|--------------|
| a. Minimum size of park: | 4 spaces | 4 spaces | 2 acres |
| b. Minimum size of space: | 5,000 sq.ft. | 4,000 sq.ft. | 2,000 sq.ft. |
| c. Minimum width of space: | 50 ft. | 40 ft. | 30 ft. |
| d. Minimum length of space: | 80 ft. | 80 ft. | 60 ft. |
| e. Minimum distance between space and street ROW: | 20 ft. | 20 ft. | 20 ft. |
| f. Minimum distance between spaces and all other property lines: | 20 ft. | 15 ft. | 10 ft. |
| g. Minimum distance between units: | 20 ft. | 15 ft. | 10 ft. |
| h. Minimum distance between dwelling or recreational vehicle and community or service buildings: | 30 ft. | 30 ft. | 20 ft. |
- i. Each access road connection with a public street shall have a surface width of at least thirty (30) feet and all other access roads shall have a surface width of at least twenty (20) feet. All access roads and parking areas and walkways shall be surfaced to minimum City road standards and be well drained. Walkways not less than three (3) feet wide may be required to be provided from manufactured dwellings or recreational vehicle spaces to community and service buildings. All access roads and walkways shall be well lighted.
- j. Developed recreation area shall be provided which contains a minimum of 2,500 square feet or 200 square feet per manufactured dwelling or recreational vehicle space, whichever requirement is greater.
- k. All areas not used for manufactured dwelling or recreational vehicle spaces, motor vehicles, parking, traffic circulation, or service or community buildings, shall be completely and permanently landscaped. The landscaping shall be maintained in good condition.
- l. Sight-obscuring screening shall be required to a height appropriate for the facility as approved by the Planning Commission, and shall be accomplished with vegetation, or fencing landscaped with vegetation, to minimize impacts on adjacent properties.

10. Standards for mobile vending stands:

- a. No person shall operate a mobile vending stand without having obtained a business license.
- b. No person shall conduct or do business from a mobile vending stand on any public right of way, street, sidewalk or public property. The selling of merchandise or conducting of business from a mobile vending stand shall only be done upon private property.
- c. No person shall operate a mobile vending stand, or sell any food, soft drink or non-alcoholic beverage dispensed from a mobile vending stand unless the mobile vending stand has been inspected by the building official and by the State Fire Marshal if the mobile vending stand has a cooking or heating apparatus. The building official shall determine that the stand is structurally and mechanically sound, and the design will not create a nuisance or hazard to the public. The State Fire Marshal shall determine that any cooking or heating apparatus is in conformance with the provisions of applicable fire codes.

- d. No person shall conduct or do business from a mobile vending stand unless proof is submitted to the City that all health and sanitary permits required by the State and County have been obtained.
- e. All utensils and equipment used by any person in the operation of a mobile vending stand shall be maintained in a clean and sanitary condition and shall conform to all standards prescribed by state law and county ordinances and regulations adopted thereto.
- f. Any person operating a mobile vending stand shall pick up any paper, cardboard, wood or plastic containers, wrappers or any litter in any form which is deposited by any person on the sidewalk, street or public property within thirty five (35) feet of the mobile vending stand at any time the person is conducting business, and shall be responsible for the disposal of same.
- g. No person conducting business from a mobile vending stand shall make any loud noise for the purpose of advertising or attracting the attention of the public to the mobile vending stand.
- h. No mobile vending stand shall be left unattended.
- i. No product shall be sold from a mobile vending stand between thirty (30) minutes after sunset and thirty (30) minutes after sunrise. The mobile vending stand shall be removed from its place of operation within one (1) hour after sunset to a private storage place out of view. A mobile vending stand shall not be placed upon any property for the operation of business before sunrise.
- j. The mobile vending stand must be placed on privately owned property when selling merchandise and any person conducting business from a mobile vending stand shall have obtained approval of the Depoe Bay Planning Commission to operate the mobile vending stand as a conditional use on the subject property. The conditional use approval by the Depoe Bay Planning Commission shall be valid for one (1) year, or such lesser time as the authorization may specify, from the date of approval, unless revoked, terminated or extended.
- k. No person shall sell any items, including but not limited to food, beverages, flowers, balloons, or other items, or offer them for sale, from any street, sidewalk, public right-of-way, or public property within the City limits of the City of Depoe Bay; provided however that items permitted to be sold from a "mobile vending stand" may be sold from public property or public right-of-way which has been closed by motion or resolution of the City Council if the mobile vending stand is doing business in conjunction with a festival/community event. A "festival or community event" is a temporary use of land for the purpose of providing general community amusement, recognition of historical events or traditions, or celebration of community-wide local products, which are organized by nonprofit organizations and the proceeds of the festival or event are used to promote the purposes of the nonprofit organization or donated to other nonprofit organizations."

11. Standards for parks and campgrounds in the T-C zone:

- a. Campgrounds shall be utilized for overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Camp sites may be occupied by tents, travel trailers or recreational vehicles.
- b. Campgrounds authorized in the T-C zone shall not include intensively developed recreational uses such as swimming pools, tennis courts or commercial amusement uses or commercial services such as retail stores or gas stations.
- c. Individual camp sites may not include utility connections for recreational vehicles or travel trailers. Central comfort stations and similar central facilities may be permitted.

- d. Area devoted to park or campground development shall not exceed ten (10) acres per development.
 - e. Development camp sites shall not exceed four (4) sites per acre.
12. Standards for public utility facilities such as electric substation or transformer, public or community domestic water supply reservoir or pumping station, or public or community sewage disposal plant or pumping station; radio or television tower or transmitter; or governmental structure or use of land:
- a. In a residential zone, all equipment storage shall be within an enclosed building.
 - b. Maintenance shops shall not be detrimental to adjacent properties.
 - c. Public utility facilities shall be visually screened by a sight-obscuring screening which shall be required to a height appropriate for the facility as approved by the Planning Commission, and shall be accomplished with vegetation, or fencing landscaped with vegetation, to minimize impacts on adjacent properties.
13. Standards for a recreational vehicle located on an individual lot:
- a. Approval of such will not encourage a pattern of development incompatible with surrounding area development.
 - b. The placement must be approved by the City and must be connected to City approved sewer and water systems.
 - c. Sight-obscuring screening shall be required to a height as approved by the Planning Commission and shall be accomplished with vegetation or fencing landscaped with vegetation to minimize impacts on adjacent properties.
 - d. Upon compliance with the above and any additional conditions which the Planning Commission feels necessary to insure compatibility with surrounding area development, a conditional use permit will be given.
14. Standards for solid waste disposal sites:
- a. Submitted plans and specifications shall contain sufficient information to allow the Planning Commission to set conditions of approval:
 - 1) Appropriate use of the land.
 - 2) Setbacks from the property line.
 - 3) Location of vehicular access points and assurances that roadway development is sufficient for heavy traffic loads.
 - 4) Public safety considerations including the potential for the transport of long term groundwater contaminants.
 - b. If the solid waste disposal area is located less than three hundred (300) feet from a residential zone or a state highway, sight-obscuring screening shall be provided to height appropriate for the facility as approved by the Planning Commission, but no less than five (5) feet. Visual screening shall be accomplished with vegetation to the required height within four (4) years or be a fence landscaped with vegetation to the height of the fence within four (4) years.
 - c. All areas used for solid waste disposal shall be located no closer than one hundred (100) feet from a property line.
 - d. The property shall be fenced to prevent blowing paper and debris and to control access to the property by pedestrians and vehicles.
15. Standards for solid waste transfer stations:

- a. Submitted plans and specifications shall contain sufficient information to allow the Planning Commission to set conditions of approval pertaining to:
 - 1) Appropriate use of the land.
 - 2) Setbacks from the property line.
 - 3) Location of vehicular access points and road development standards.
 - 4) Public safety considerations including monitoring for seepage transport via surface and groundwater.
 - b. Solid waste transfer stations shall be fenced to prevent blowing paper and debris and to control access.
 - c. Sight-obscuring screening shall be provided to a height appropriate for the facility as approved by the Planning Commission, but no less than five (5) feet. Visual screening shall be accomplished with vegetation to the required height within four (4) years or be a fence landscaped with vegetation to the height of the fence within four (4) years.
 - d. Facilities and storage shall be located no closer than thirty (30) feet from any property line.
 - e. Hours of operations shall be established.
 - f. Operation shall be conducted to prevent seepage, excess noise and odor.
16. Conditions for approval for uses involving construction, addition or reconstruction of piers, docks, boathouses or similar facilities:
- a. In a Marine Waterway (M-W) Zone, all uses and activities shall be subject to the standards set forth in the Estuarine Plan. Where these documents are in conflict, the Estuarine Plan shall prevail.
 - b. Evidence shall be provided that the applicant has complied with or fully intends to comply with all standards of the Department of Environmental Quality, the Division of State Lands and all other agencies having interests or ordinances applicable to the property in question.
 - c. The facility or any use related to it is designed to avoid water pollution to occur to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.
 - d. The facility shall not substantially alter the course of any channel or the natural movement of any waters, or result in increased flood hazards or the formation of appreciable bottom or sludge deposits deleterious to marine life, and shall meet all of the following requirements:
 - 1) No dock, pier or similar facility shall extend into any watercourse more than twenty five (25) feet from ordinary low water line nor fifty (50) feet from ordinary high water line, unless it can be shown that such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension.
 - 2) No pier, dock or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area.
 - 3) No pier, dock or similar facility shall extend into any watercourse more than five (5) percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.
 - e. No plumbing facilities for the handling of domestic or industrial waste shall be a part of the facility unless approved by the Health Department.
 - f. Application for a permit for a pier, dock, bulkhead, boathouse or similar facility shall include:

- 1) The source of the applicant's right to construct the facility.
 - 2) The purpose of the facility.
 - 3) The legal description of the area where the facility will be located.
 - 4) A map and drawings, showing the plan for construction of the facility. Such plan shall include a vicinity map drawn to scale showing the location and design of similar facilities and other development within two hundred fifty (250) feet of the parcel upon which the improvement is proposed.
 - 5) The date when the project is scheduled to begin and to be completed.
- g. Plans for moorage facilities shall meet the following requirements:
- 1) In new subdivisions tentatively approved after February 12, 1974, docks having less than ten (10) moorage spaces will be approved only in the instance that no other public or private means of launching or moorage is available or can be developed within one thousand (1,000) feet of the site in question.
 - 2) Facilities being proposed in areas where it is likely that additional similar structures will be desired shall be designed to be combined into joint facilities wherever possible.
 - 3) The design of moorage's must provide sheer logs or similar devices for fending off debris. Such improvements need not be maintained during periods where there is no danger of flood water.
 - 4) Docks shall have the long dimension running parallel to the channel unless future development will result in pier construction or moorage's being connected, necessitating facility design perpendicular to the channel
 - 5) The width of those portions of such facilities dimension required to provide safe access and moorage.
 - 6) One dock shall not be closer to another than the length of the shorter structure or twenty five (25) feet, whichever distance is greater.
 - 7) The number of ramps, fenders and other land connections, and the number of piling and other projection below the surface of the water, shall be minimized.
 - 8) Walkways shall be provided on only one side of individual moorage's unless it can be satisfactorily shown that walkways are necessary on both sides. Walkways and breakwaters shall have a width not greater than required to provide safe moorage and access thereto.
- h. Each dock, boathouse or similar facility shall have the U.S. Army Corps of Engineers permit number permanently affixed to the outboard side of the facility in a clearly visible location prior to requesting final city inspection for conditional use permit issuance.
- i. No owner of a dock or similar facility shall exercise any proprietary rights on the water surrounding such structure. Violations of such will be considered a failure to maintain the conditional use approval requirements.
- j. Recognition of potential flood hazards as well as the need to protect the visual attractiveness of the waterway shall be shown in design and exterior materials used in construction of docks, piers, boathouses and similar facilities.
- k. In taking action on a conditional use request, the Planning Commission may consult any State, Federal or local agency it feels appropriate for consultation and advice.

ARTICLE 7. NON-CONFORMING USES

(amended 4/6/04-ORD 256)

Section 7.010. Purpose. The purpose of this section is to establish a policy and guidelines for the regulation of non-conforming uses and structures. It is further the purpose of this section to work towards bringing non-conforming uses and structures into compliance with this Ordinance, the Comprehensive Plan, and other applicable ordinances and regulations. However, existing non-conforming uses and structures may continue, subject to the limitations and restrictions contained in this Article.

Section 7.020. Definitions. For the purposes of this Article, the following definitions shall apply:

1. Nonconforming Structure: Structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws, but which because of the application of a subsequent zoning ordinance no longer conforms to the setback, height, maximum lot coverage, size, or other building development requirements of this Ordinance.
2. Nonconforming Use: Use of structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the use requirements for the zoning district in which it is located.

Section 7.030. Continuation of Non-Conforming Use or Structure. Existing non-conformities may continue indefinitely. Changes in use, alterations of structures, and new or expanded uses shall conform to the provisions of this Article.

Section 7.040. Expansion or Renovation of Non-Conforming Use. A non-conforming use (existing at the time zoning was adopted or changed in the area) may be expanded or renovated if the Planning Commission determines that such use is not detrimental to the public health, safety and welfare, and that such use is in compliance with all state rules and local ordinances. Expansions or renovations of non-conforming uses and structures may be allowed providing the work does not result in a greater adverse effect on the surrounding area considering factors such as parking, traffic, dust, noise, lighting or hazards. The Planning Commission may allow a request for an expansion or renovation of a non-conforming use upon holding a public hearing following the conditional use procedure.

Section 7.050. Extension, Expansion, Enlargement, or Renovation of Non-conforming Structures. Non-conforming structures may be extended, expanded, enlarged, or renovated only if such changes conform to the standards in the underlying zone.

Section 7.060. Change of Non-Conforming Use. The change from one non-conforming use to another non-conforming use shall be allowed only if the Planning Commission determines that such structure is suitable only for another non-conforming use no more detrimental to surrounding properties than the one to be replaced.

Section 7.070. Maintenance and repairs of Non-conforming Uses and Structures. Normal maintenance and repairs are permitted that do not result in the alteration of the footprint, volume, or height of the building.

Section 7.080. Discontinuation of a Non-conforming Use. If a non-conforming use is discontinued for a period of one year, further use of the property shall be in conformance with the provisions of the Zoning Code.

Section 7.090. Destruction of a Non-Conforming Structure If a non-conforming structure, or a structure containing a non-conforming use, is unintentionally destroyed, it may be fully replaced within three years, providing the work does not result in an alteration of the footprint, height, or volume of the structure, or building outside the property line. Present ordinance requirements shall be complied with unless a hardship is involved.

ARTICLE 8. VARIANCES

Section 8.010 Authorization to Grant or Deny Variances. (amended 12/22/92-ORD 185) The Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 8.020. Circumstances for Granting a Variance. A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topography, or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
3. The variance would not be materially detrimental to the purposes of this ordinance, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
4. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.
5. The hardship asserted as a basis for the variance does not arise from a violation of the Zoning Ordinance.

Section 8.030. Variance Procedure. The following procedures shall be followed in applying for and acting on a variance.

1. A property owner may initiate a request for a variance by filing an application with the City Recorder, using forms prescribed pursuant to Section 10.030. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of the proposed development. The Planning Commission may request other drawings or material essential to an understanding of the variance request.
2. Before the Planning Commission may act on a request for a variance, it shall hold a public hearing. Section 10.050 sets procedure for Notice of Public Hearing.
3. Within five (5) days after a decision has been rendered with reference to a request for a variance, the City Recorder shall provide the applicant with notice of the decision of the Planning Commission.

4. The Planning Commission's decision is final unless it is appealed pursuant to Section 10.020.

Section 8,040. Time Limit on a Variance. Authorization of a variance shall be void after one (1) year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one (1) year, on request.

ARTICLE 9. AMENDMENTS

Section 9.010. Authorization to Initiate Amendments. An amendment to the text of this ordinance or to a zoning map may be initiated by the City Council, by the Planning Commission, or by application of a property owner.

Section 9.020. Amendment Procedure. The procedure for amending the zoning ordinance specified in Article 10 shall be followed. *(amended 4/6/04-ORD 256)*

- h. In considering an amendment to a zoning map, the Planning Commission shall seek to determine the following:
 - a. That the change is in accord with the Land Use Plan for the area, and
 - b. That there has either been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or that the zoning adopted for the area was in error.

If the proposed change is not in accord with the Land Use Plan for the area, the Planning Commission and the City Council shall seek to determine that an alteration of the plan can be justified on the basis that there has been a substantial change in the character of the area since the plan was adopted and which warrants a change in the plan, or that the plan adopted for the area was in error.

- i. The office of the City Recorder shall maintain records of amendments to the text and map of this ordinance in a form convenient for use by the public.

Section 9.030. Limitation. No application of a property owner for an amendment to the text of this ordinance or to the zoning map shall be considered by the Planning Commission within the one (1) year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

Section 9.040. Time Limit on a Zoning Map Amendment. Approval of a zoning map amendment may be voided after two (2) years, unless otherwise specified, by the Planning Commission upon finding at a public hearing that substantial construction has not taken place on the re-zoned property.

ARTICLE 10. ADMINISTRATIVE PROVISIONS

*(amended 9/17/90-ORD 154, 10/7/91-ORD 172, 12/2/91-ORD 173,
3/16/92-ORD 174,4/6/04-ORD 256, 5/4/10-ORD 287)*

Section 10.010. Administration: The City shall have the power and duty to enforce the provisions of the Article.

Section 10.015. Application Procedures: Petitions, applications, and appeals provided for in this chapter shall be made on forms prescribed by the city. Applications shall be accompanied by final proposed plans, specifications, and such other information as specified on the application form or by this article. An application shall be deemed complete thirty (30) days after receipt of the material, unless the applicant received prior notice from the City that the application is incomplete. An applicant must apply at one time for all approvals required by this chapter for a development project, except as allowed by the Planning Commission. City action on a consolidated application is subject to the time limitations provided in the applicable statute of the latest ORS. If the applicant for an action is not the property owner, the application shall be accompanied by a letter from the property owner which authorizes the action. *(amended 5/4/10-ORD 287)*

Section 10.017. Survey Requirements. At the time an application for a permit is submitted for structural improvements which require compliance with setback requirements, the City may require that the applicant provide a copy of a recorded survey which identifies the location of the property line(s) from which the setback is applicable. At the request of the city, the applicant shall also provide: *(replaced 5/4/10-ORD 287)*

- a. Certification that the survey monuments are present at the site;
- b. Certification that the property line(s) are identifiable by stake-out of the monuments, and will remain available during the course of the construction to confirm the improvements are in conformance with applicable setbacks; and
- c. A statement of understanding that failure to locate the structure in compliance with applicable setbacks may result in city action to pursue remedies found in Section 12.030 of City of Depoe Bay Zoning Ordinance No. 24.
- d. A foundation survey which documents compliance with the minimum setback requirements.

Section 10.020. Review Categories: The following table defines how applications will be categorized and processed:

<u>Application Type</u>	<u>Review Authority</u>	<u>Affected Owners Notified</u>	<u>Public Hearing</u>	<u>Review Procedure</u>	<u>Appeal To:</u>
Permits-A*	Planner	No	No	10.025(1)	Plan Comm
Permits-B*	Plan Comm	No	No	10.025(1)	City Council
Coastal Shorelands	Plan Comm	Yes	Yes	10.025(3)	City Council
Geotech Report	Plan Comm	Yes	Yes	10.025(3)	City Council
Property Line Adjustment	Planner	Yes	No	10.025(2)	Plan Comm
Tentative Approval of Partition	Plan Comm	Yes	Yes	10.025(3)	City Council
Final Approval of Partition	Planner	No	No	10.025(1)	Plan Comm
Time Extension Request	Plan Comm	No	No	10.025(1)(e)	City Council
Renovation, Extension or Expansion of Non-conforming Uses and Structures	Plan Comm	Yes	Yes	10.025(3)	City Council
Conditional Uses	Plan Comm	Yes	Yes	10.025(3)	City Council
Variances	Plan Comm	Yes	Yes	10.025(3)	City Council
Tentative Approval of Subdivision	Plan Comm	Yes	Yes	10.025(3)	City Council
Tentative Approval of Planned Development	Plan Comm	Yes	Yes	10.025(3)	City Council
Final Approval of Subdivision and Planned Development	Plan Comm	No	Yes	10.025(3)	City Council
Comp Plan or Zoning ORD Text and Map Amendment	Plan Comm	Yes	Yes	10.030,10.040	City Council
Comp Plan or Zoning ORD Text and Map Amendment	City Council	Yes	Yes	10.030,10.040	LUBA
Appeal Planner Decision	Plan Comm	Yes	Yes	10.070(1)	City Council
Appeal Planning Comm Decision	City Council	Yes	Yes	10.070(2)	LUBA

Permits-A: Those not covered by the following;

Permits-B: Those that involve new or substantial construction in Commercial, Light Industrial, Marine Commercial or Marine Planned Zones. Substantial construction is defined as more than 20% change in footprint, an increase in building height, or change in use;

Section 10.025 Review Procedures: The review of applications received under the provisions of this chapter shall be conducted according to the following procedures:

1. Procedure for action by the City Planner on applications not subject to notification requirement:
 - a. The property owner or authorized agent shall submit an application to the City.
 - b. Upon determination that the application is complete, the City may refer the application to affected cities, districts, local, state, or federal agencies for comments.
 - c. Within 10 days of determining an application is complete, or such longer period as mutually agreed to by the City and the applicant, the City shall approve, deny, or at the City Planner's discretion, refer the application to the Planning Commission for consideration. The applicant shall be notified in writing of the City Planner's action.
 - d. All actions of the City Planner may be appealed to the Planning Commission pursuant to Section 10.070 (1).
 - e. The City Planner shall refer applications for Permits-B, Time Extension Requests, and any others that require additional review, to the Planning Commission after deeming them complete.

2. Procedure for Action by the City Planner on applications subject to notification requirement.

A decision shall be consistent with applicable provisions of the City Comprehensive Plan and land use regulations.

 - a. The property owner or authorized agent shall submit an application to the City. Each application shall include a map showing the subject property, tax lot, and legal description. Additionally, the application shall include the location of all connections to off-site facilities e.g. sewage, drainage, public roads, or easements.
 - b. Upon determination that the application is complete, the City Planner may refer the application to affected districts, local, state, or federal agencies for comments.
 - c. Within sixty (60) days, but not less than fourteen (14) days, of determining an application is complete, or such longer period as mutually agreed to by the City and the applicant, the City shall approve, deny, or at the City Planner's discretion, refer the application to the Planning Commission for consideration. The applicant shall be notified in writing of the City Planner's action.
 - d. Notice shall be mailed to owners of property within one hundred (100) feet of the entire contiguous site for which the application is made, informing them that they may submit written comments to the City Planner. The City shall undertake the mailing such that property owners will have fourteen (14) days prior to the meeting to submit written comments.
 - e. The notice shall also include the following:
 1. An explanation of the nature of the application and the use or uses that could be authorized;
 2. The applicable criteria for the decision, by commonly used citation;
 3. A brief summary of the decision-making process;

4. The street address, or other easily understood geographical reference, of the subject property;
 5. The place, date and time that comments are due;
 6. The name and phone number of a City contact person;
 7. A statement that indicates that issues which may provide the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised in writing prior to the expiration of the comment period and must be set forth with sufficient specificity to enable the City Planner to respond to the issue.
- g. Written notice of the decision shall be provided to the applicant and any person who submits written comments under “d” above. The notice shall include an explanation of the appeal process to the Planning Commission as set forth in 10.070(1).
3. Procedure for Land Use Decisions Subject to a Planning Commission Hearing. A land use decision shall be consistent with applicable provisions of the City Comprehensive Plan and land use regulations.
 - a. The property owner or authorized agent shall submit an application or appeal to the City.
 - b. Within five days of determining the application or appeal complete, the City shall schedule the matter for public hearing before the Planning Commission.
 - c. Upon determination that the application or appeal is complete, the City may refer the application to affected cities, districts, and local, state, or federal agencies for comments.
 - d. Notice for, and conduct of, public hearings provided for in this section shall be in accordance with Section 10.050 and Section 10.060.
 - e. Decision of the Planning Commission may be appealed to the City Council pursuant to Section 10.070(2).
 4. Effective Date of Decision. A decision is effective when signed by the representative of the reviewing body. If there is no local appeal within the appeal period allowed by this ordinance, the decision is final at the expiration of the appeal period. The decision of the City Council is final when signed by the Mayor or the Mayor’s designee.

Section 10.030. Amendments: The purpose of Section 10.030 is to describe general requirements and criteria to be considered in reviewing an application for an amendment to the provisions of the City of Depoe Bay Zoning Code, Comprehensive Plan and all implementing ordinances. An amendment may be made to the text of the City of Depoe Bay Zoning and Land Division regulations, the Comprehensive Plan and Zoning Maps, or the related ordinances and documents. An amendment may be accomplished in either a legislative or quasi-judicial manner as follows:

1. Legislative amendments may be made for the establishment of policy. Such an amendment may be initiated only by the City Council. A person may petition the City Council to initiate such a legislative amendment but may not initiate the amendment by making direct application. Such amendment shall be made only after a public notice and hearing has been held pursuant to Section 10.040 and Section 10.050.1.

2. Quasi-Judicial amendments to the Comprehensive Plan and Zone Maps may be made only for the application of established policy to specific properties in the City. Such amendment may be initiated by the City Council, Planning Commission, or by the application of an owner of land or authorized agent. An application for an amendment by an owner or authorized agent shall be made in accordance with the application procedure specified in Section 10.015, and shall be reviewed for compliance with the standards of Section 10.040 after the notice required by 10.050.2, and after the conduct of a public hearing according to 10.060.

Section 10.040 Amendment Procedure Standards for Review.

1. Legislative Amendments: A legislative amendment shall be made by the City Council only after review and recommendation by the Planning Commission. Proceedings initiated by the City Council shall be by resolution and shall be referred to the Planning Commission for a public hearing. To approve a legislative amendment the Planning Commission and City Council must:
 - a. Establish that the amendment will be consistent with the Comprehensive Plan goals and policies, except any Comprehensive Plan goal or policy that is the subject of the amendment;
 - b. Establish that the amendment will be consistent with all other provisions of this Chapter and in conformance with the Statewide Planning Goals and all other applicable statutes and regulations;
 - c. Establish that there is a public need for the requested change and that the public need will be met by the change.
2. Quasi-Judicial Amendments: A quasi-judicial amendment to the Comprehensive Plan and Zoning Maps may be authorized provided that the proposal satisfies all applicable requirements of the code and also provided that the applicant, in a quasi-judicial hearing, demonstrates the following:
 - a. That the amendment will be consistent with all other provisions of this code and applicable statutes and regulations and, if the amendment is an amendment to the Comprehensive Plan, that the amendment is in conformance with the Statewide Planning Goals; and
 - b. That there has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or
 - c. Zoning previously adopted for the area was in error; or
 - d. There is a public need for the change being sought.
3. Records: The City Recorder shall maintain records of amendments in a form accessible for use by the public.
4. Limitation: Reapplication by a property owner for a text or zone map amendment cannot be made within one year after denial, except that the Planning Commission may permit a new application if, in its opinion, new evidence or a change in circumstances warrant it.

Section 10.050. Notice of Public Hearing:

1. Legislative Hearings: Notice of hearings for legislative amendments shall consist of a statement specifying the date, time, place and general subject of the hearing and shall be published in a newspaper of general circulation in the City at least three (3) times during the three (3) weeks prior to the hearing. In addition, notice shall be provided in accordance with the applicable statute of the latest ORS. (*amended 5/4/10-ORD 287*)
2. Quasi-Judicial Hearings: Notice of quasi-judicial hearings for the consideration of applications and appeals provided for in this chapter shall:
 - a. Be provided in writing to the applicant and to the owners of record of property on the most recent tax assessment roll of Lincoln County:
 - 1) Within 500 feet of the boundaries of the subject property in T-C zones.
 - 2) Within 250 feet of the subject property in all other zones.The City may provide additional notices, e.g. to known neighborhood or community organizations whose boundaries include the subject property.
 - b. Explain the nature of the application and the use or uses which could be authorized;
 - c. List the applicable criteria from this chapter that apply to the subject application;
 - d. Set forth the street address or other easily understood information identifying the location of the subject property;
 - e. State the date, time and location of the hearing;
 - f. State 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 City Hall at no cost and can be provided at a reasonable cost;
 - g. State that a copy of the City's staff report is available for inspection at no cost and can be provided at a reasonable cost seven days prior to the hearing;
 - h. Provide the name and telephone number of the City staff person to contact for additional information;
 - i. Include a general explanation of the requirements for submission of testimony and the conduct of the hearing; and
 - j. State the failure to raise an issue in the hearing, either in person or in writing, or failure to provide statements or evidence sufficient to afford the hearings body an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals on that issue.
 - k. Notice of a quasi-judicial public hearing shall be published in a newspaper of general circulation in the City at least ten days prior to the date of the hearing. (*added 5/4/10-ORD 287*)
3. The failure of a property owner to receive notice as provided for in this section shall not invalidate the subject hearing proceeding provided that the City can demonstrate by affidavit that such notice was given.
4. If the application changes the zone of a property which includes all or part of a mobile home/manufactured dwelling park, the City shall give written notice by first class mail to each existing mailing address for occupants of the mobile home/manufactured dwelling park at least 20 days, but not more than 40 days, before the date of the first hearing on the application. For the purposes of this section, the occupants name and address as listed by the owner or manager of the park shall be used for notification.
5. No decision or action by the Planning Commission or City Council shall be invalid due to ex-parte contact, or bias resulting from ex-parte contact, with a member of the Planning

Commission or City Council, if the member of the decision-making body receiving the contact:

- a. Places on the record the substance of any written or oral ex-parte communications concerning the decision or action, and
 - b. Makes an announcement of the content of the contact or communication, and of the parties' right to rebut the substance of the contact, at the first hearing following the communication where action will be considered or taken on the subject to which the communication pertains. A communication between city staff (including consultants for Legal, Engineering, Planning or other services) and the Planning Commission or City Council shall not be considered an ex-parte contact.
6. Notice of Exception to Statewide Planning Goals: Actions involving the consideration of exception to the Statewide Planning Goals shall be subject to the notice and hearing requirements of DBZO Section 10.050 and 10.060. In addition, the required notice of public hearing shall specifically note the exceptions to be considered and shall summarize the issues in an understandable manner.

Section 10.060. Conduct of Quasi-Judicial Public Hearings: Any quasi-judicial public hearing required by, or provided for, in this Article shall be conducted in accordance with the following requirements:

1. Application Materials: All application materials, documents or other evidence relied upon by the applicant for any land use approval shall be provided to the City and made available to the public at least 20 days prior to the hearing. If any documents or evidence in support of the application are provided for consideration by the hearings body after 20 days prior to the hearing, any party shall be entitled to a continuance of the hearing.
2. Staff Report: At least seven days prior to the hearing, the City shall provide to the hearings body, and make available to the public for inspection or purchase, a report detailing the nature of the request and the applicable criteria of the chapter.
3. Pre-Hearing Statement: At the commencement of the hearing, a statement shall be made by the hearings body or staff to those in attendance that:
 - a. Lists the applicable substantive criteria;
 - b. States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in this chapter the party believes to apply to the subject request; and
 - c. States that failure to raise an issue, accompanied by statements or evidence sufficient to afford the hearings body and the parties an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals on that issue.
4. Unless otherwise provided for by the hearings body, the order of presentation of testimony shall be as follows:
 - a. Staff report.
 - b. Presentation by the applicant or, in the case of an appeal of a prior decision, the appellant.
 - c. Testimony by opponents or, in the case of an appeal, the respondent.

- d. Applicant's or, in the case of an appeal, appellant's rebuttal arguments.
5. Continuances: The hearings body may continue any hearing as deemed necessary to receive additional arguments or testimony, or for further consideration of any evidence or testimony. A continuance may be provided for by the hearing body on its own motion or may be requested by a party. Any continuance or extension of the record requested by an applicant shall suspend the time limit specified in Section 10.060(9) below. If the hearings body grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary 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 presented 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. No additional notice need be given of the continued hearing.
 6. Holding Open the Hearing Record: Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearings body shall grant such a request by continuing the hearing pursuant to Section 10.060(5) of this section or leaving the record open for additional written evidence or testimony. If the record is left 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 or testimony submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record pursuant to subsection (7) of this Section 10.060(7).
 7. Reopening the Hearing Record: The hearings body may, on its own motion, or upon request of a party, publish new notices and reopen the record of any hearing previously concluded. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision making which apply to the subject application or appeal.
 8. Continuing a Hearing: The hearings body may continue a hearing in order 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. Upon continuing, the time and date when the hearing is to be resumed shall be announced at the meeting, and no additional notice shall be necessary.
 9. Time Limitations per Applicable Statute of the latest ORS: Any continuance or extension of the record shall be subject to the time limitations of the applicable statute of the latest ORS unless the continuance or extension is requested by, or agreed to by, the applicant. (*amended 5/4/10-ORD 287*)
 10. Final Arguments: Unless waived by the applicant, the hearings body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicants final submittal shall be considered part of the record, but shall not include any new evidence. For purposes of this section:

- a. "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.
- b. "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 a decision by the hearings body.

Section 10.070. Appeals: The hearings body may retain authority to dismiss an appeal for failure to follow the requirements of this Chapter.

1. Appeals of a Decision of the City Planner: Where it is alleged that there is an error in any procedure or decision made by the City Planner, an appeal may be made therefrom to the Planning Commission on a form prescribed by the City. An applicant's appeal of a City Planner action shall be filed within 15 days of the effective date of the decision. In the event that the final day for the filing of an appeal falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a City Planner decision shall be filed with the City and shall be accompanied by a written statement of the grounds for the appeal and any required filing fee and deposit for costs. Upon receipt of an appeal, the City shall schedule a public hearing before the Planning Commission. Public notice of the hearing shall be in accordance with Section 10.050.
2. Appeals of a Decision of the Planning Commission: Where it is alleged that there is an error in any procedure or decision made by the Commission, an appeal therefrom may be made to the City Council. Such an appeal shall be filed with the City within 15 days of the effective date of the subject decision of the Commission. In the event that the subject decision falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a Commission decision subject to review by the City Council pursuant to this section shall be filed on a form prescribed by the City and shall be accompanied by any required filing fee and deposit for costs. When an appeal is filed, within 10 days of such filing, the City Planner shall provide to the City Council the record of the proceedings and decision of the Commission. The City Council shall hold a public hearing on the appeal. Public notice of the appeal shall be in accordance with Section 10.050(2).
3. City Council Action:
 - a. The Council may affirm, modify or reverse all or part of the action of the Commission or may remand the matter for additional review or information.
 - b. The City Council may, on its own motion, review any decision of the City Planner or the Planning Commission pursuant to the review procedures. Such motion shall be made within 14 days of the effective date of the decision to be reviewed.
4. The City shall provide notice of a decision to any party participating in a hearing.

Section 10.080. Action Fees. The applicant or appellant in any actions subject to Sections 10.025.1, 10.025.2 or 10.025.3 within the jurisdiction of the City of Depoe Bay is responsible for all costs incurred by the city in processing and preparing the action. Deposits and fees are required to be paid to the city upon filing of an application. The amounts of deposits and fees shall be established by resolution of the City Council and may be amended from time to time by resolution. Deposits are required for costs particular to the application. These costs include, but are not limited to, costs incurred by the city for staff reports, professional services, public notices, postage and copies. Any deposit funds remaining at the completion of the action shall be refunded to the applicant or appellant pursuant to Section 10.081. Fees are required for overhead costs not particular to the application and are not refundable.

Section 10.081. Land Use Action Costs. Upon expiration of the appeal period for a land use action initiated pursuant to this ordinance, the city shall provide the applicant or appellant with a statement showing the total cost of the action. This statement shall be accompanied by a refund of the balance of any remaining deposit funds after all costs incurred by the city in processing the application have been withheld as reimbursement to the city.

1. In the event a land use action requires a protracted evaluation, additional deposits may be required to cover expenses incurred by the city. Additional deposits under this Section shall be paid to the city prior to final action being taken by the hearings body.
2. In the event the applicant or appellant withdraws a request for a land use action or appeal, all costs incurred by the city for the action from the date of application to the date of withdrawal shall be withheld from the deposit and the balance refunded to the applicant.
3. Notwithstanding the provisions of Sections 10.080 and 10.081, the City Council may waive any or all portions of land use application costs.
4. An application for a land use action or appeal shall be considered voluntarily withdrawn if the applicant or appellant fails to provide required additional deposit amounts within thirty (30) days of receiving notice to do so or by the 120 day limit for the City to take final action once the application is deemed complete, whichever occurs sooner.

ARTICLE 11. MISCELLANEOUS PROVISIONS

Section 11.010. Interpretation. Where the conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by any other provisions of this ordinance or of any other ordinances, resolution, or regulation, the provisions which are more restrictive shall govern.

Section 11.020. Severability. The provisions of this ordinance are severable. If any Section, sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 12. REMEDIES

Section 12.010. Penalty. A person violating a provision of this ordinance shall, upon conviction, be punished by imprisonment for not more than thirty (30) days or by a fine of not more than \$500.00 dollars or both. A violation of this ordinance shall be considered a separate offense for each day the violation continues. The convicted violator shall be liable for all court costs.

Section 12.020. Remedies. In case a structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or land is, or is proposed to be, used in violation of this ordinance, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin, temporarily or permanently, abate or remove the unlawful locations, construction, maintenance, repair, alteration, or use.

Section 12.030. Procedure. *(deleted 12/16/96-ORD 234)*

ARTICLE 13. DEVELOPMENT GUIDELINES

(amended 3/15/82-ORD 85, 10/7/91-ORD 172, 6/2/97-ORD 239, 4/6/04-ORD 256, 5/4/10-ORD 287)

Section 13.010. Purpose. Some areas of Depoe Bay are located on steep slopes, have erosion or landslide potential, or are otherwise of concern. The purpose of this section is to minimize hazards and threats to life and property by regulating building, grading, land clearing and other human activities in areas identified with landslide topography, steep slopes, areas subject to erosion, high groundwater table, and other hazards. It is also the intent of this Article to protect life and property by reducing building density in these areas, by requiring special construction techniques, and by requiring the study of such areas by an Oregon-registered engineering geologist prior to any activity.

Section 13.015. Weak Foundation Soils. Many areas within the City of Depoe Bay are located on areas described by the Soil Conservation Service as containing “weak foundation soils” or other soils limitations. Construction techniques, through the Uniform Building Code, require the effect of weak foundation soils or other soil limitations to be considered in the construction process. Construction of structures on areas of weak foundation soils or other soils limitations is not deemed to pose a significant hazard to life or property outside the property boundaries. The manner provided in the Uniform Building Code to address problems arising from weak foundation soils or other soils limitations is deemed to be an adequate means of protection of life and property. This statement serves as a warning for development on weak foundation soils.

Section 13.020. Discharge of Sediment or Water: Property owners or other persons in charge of property shall not cause, or permit to be caused, the discharge of sediment or water onto adjoining property or the public right-of-way unless the permit application is accompanied by a drainage plan accepted by the affected property owners, or the applicant has demonstrated compliance with State laws regarding discharge of sediment or water. The following measures are suggested as possible means to prevent such discharges:

1. Minimal removal of vegetative cover, particularly trees.
2. Temporary measures for controlling runoff, such as berms or holding ponds.
3. The planting of vegetative cover as soon as possible after each phase of construction, including excavation, grading, and/or land clearing.
4. Design of the site to avoid steep areas or other hazards.

Section 13.030 Affected Areas. The following areas and activities shall be subject to the requirements of this article:

1. Areas identified as being geologically hazardous by “Environmental Geology of Lincoln County, Oregon, 1973”, Oregon Department of Geology and Mineral Industries, or “Environmental Hazard Inventory, Coastal Lincoln County Oregon” RNKR Associates, 1978. These documents are referenced as part of the Comprehensive Plan and are available in the office of the City Recorder.
2. Areas identified by the Natural Resource Conservation Service as having high groundwater.

3. Areas containing slopes in excess of 20% (Areas generally containing significant slopes are identified on the attached map. Sites in this area are “affected” unless shown otherwise per Section 13.070).
4. Areas fronting the ocean or coastal bluff that are seaward from the line set by the coastal setback requirements of Section 13.080.

Section 13.040. Geologic Permit Required. A Geologic Permit shall be obtained for any development within the affected areas. For subsequent building permits, such as for decks or room additions, the original Geologic Permit is acceptable, if it is no older than 5 years and the report author evaluates the new building permit plans and sends a letter to the City that bears the stamp of the licensed geologist or engineering geologist, acknowledging that the submitted plans have been reviewed and that such building activity can be safely accomplished. In areas having slopes greater than 20%, a Geologic Permit shall also be obtained before removing vegetation from or grading an area in excess of 20,000 sq. ft. or adding or removing 90 cu. yd. of earth in an area of 5,000 sq. ft. Minimal accessory uses that do not require a building permit (playground equipment, small gazebo, etc.) are excluded from the requirements of this Article.

Section 13.050. Permit Procedures. In order to obtain a Geologic Permit, the applicant shall submit, along with the appropriate fee, a Geologic Hazard Report which shall be prepared by a registered geologist or a certified engineering geologist recognized by the State of Oregon and dated no more than one year prior to the application date. The report shall explain fully the activity for which the permit is being sought. If the purpose of the Geologic Hazard Report is for a building permit, then the report shall accompany and address final building plans. Any activities not specifically covered in the report will not be covered by the permit. The report shall also identify the nature, extent and location of all geologic hazards associated with the proposed site and activity. Finally, the report shall detail exact measures to be taken so as to avoid the occurrence of landslides, erosion, sloughing, puddling, or other identified geologic hazards on the subject and surrounding property or any prohibited activity identified above. For uses requiring removal of vegetation or excavation, plans for the legal disposal of such materials shall be submitted.

Section 13.055. Specific Requirements for Geologic Hazard Reports. Geologic Hazard Reports provided pursuant to this Article shall conform to the following requirements from the “Guidelines for Preparing Engineering Geologic Reports in Oregon”. The geologist’s report shall have reviewed these specific requirements and the applicant shall address the applicable conditions in the proposal. Sections that are not applicable shall be identified as not applicable.

1. General Information

- a. Client or party that commissioned the report.
- b. Name(s) of geologist(s) who did the mapping and other investigation on which the report is based, and dates when the work was done.
- c. Location and size of area, and its general setting with respect to major or regional geographic and geologic features, including a statement of existing surrounding and on-

site land uses and public facilities, utilities and easements. The location shall be identified by the tax map, tax lot number and the street address to eliminate confusion in identifying the property.

- d. Purpose and scope of the report and geologic investigation, including the proposed use of the site. Also, identify the level of the study, i.e., feasibility, preliminary, final etc.
- e. Topography and drainage within or affecting the area.
- f. General nature, distribution, and abundance of exposures of earth materials within the area.
- g. Nature and source of available subsurface information and geologic reports or maps. Suitable explanations of the available data should provide a technical reviewer with the means of evaluating the reliability. Reference to cited works or field observations should be made, to substantiate opinions and conclusions.
- h. Disclosure of known or suspected geologic hazards affecting the area, including a statement regarding past performance of existing facilities (such as buildings or utilities) in the immediate vicinity.
- i. Locations of test holes and excavations (drill holes, test pits, and trenches) shown on maps and sections described in the text of the report. The actual data, or processed data upon which interpretations are based, should be included in the report to permit technical reviewers to make their own assessments regarding reliability and interpretation.
- j. All field and laboratory testing procedures (by ASTM designation, if appropriate) and test results.
- k. The signature and seal of the certified engineering geologist who prepared the report.

2. Geologic Mapping and Investigation

- a. Geologic mapping of the area should be done at a scale which shows sufficient detail to adequately define the geologic conditions present. For many purposes, available published geologic maps are unsuitable to provide a basis for understanding the site conditions, so independent geologic mapping is needed. If available published geologic maps are used to portray site conditions, they must be updated to reflect geologic or topographic changes which have occurred since map publication. It may be necessary for the geologist to extend mapping into adjacent areas to adequately define significant geologic conditions.
- b. Mapping should be done on a suitable topographic base or aerial photograph, at an appropriate scale with satisfactory horizontal and vertical control. The date and source of the base should be included on each map or photo.
- c. The geologist doing the investigation and preparing the map should report the nature of bedrock and surficial materials, the structural features and relationships, and the three-dimensional distribution of earth materials exposed and inferred within the area. A clear distinction should be made between observed and inferred features and relationship.

- d. The report should include one or more appropriately positioned and scaled cross sections to show subsurface relationships that cannot be adequately described in words alone. Fence or block diagrams may also be appropriate.
3. Geologic Descriptions The report should contain brief but complete descriptions of all natural materials and structural features recognized or inferred within the subject area. Where interpretations are added to the recording of direct observations, the basis for such interpretations should be clearly stated. Describe all field mapping and exploration procedures (surface geologic reconnaissance, drilling, trenching, geophysical survey, etc.).

The following checklist may be useful as a general, though not necessarily complete, guide for descriptions:

- a. Bedrock
1. Identification of rock types.
 2. Relative and absolute age and, where possible, correlation with named formations and other stratigraphic units.
 3. Surface and subsurface expression, areal distribution and thickness.
 4. Pertinent physical characteristics (e.g., color, grain size, nature of stratification, strength, variability).
 5. Distribution and extent of zones of weathering; significant differences between fresh and weathered rock.
 6. Special engineering geologic characteristics or concerns (e.g., factors affecting proposed grading, construction, and land use).
- b. Structural features—stratification, faults, discontinuities, foliation, schistosity, folds.
1. Occurrence, distribution, dimensions, orientation and variability; both within and projecting into the area.
 2. Relative ages, where pertinent.
 3. Special features of faults (e.g., topographic expression, zones of gouge and breccia, nature of offsets, age of movements, youngest faulted unit and oldest unfaulted unit).
 4. Other significant structural characteristics or concerns.
- c. Surficial deposits—alluvial, colluvial, eolian, glacial, lacustrine, marine, residual, mass movement, volcanic (such as cinders and ash), and fill.
1. Identification of material, grain size, relative age, degree of activity of originating process.
 2. Distribution, dimensional characteristics, variations in thickness, degree of soil development, surface expression.
 3. Pertinent physical and engineering characteristics (e.g., color, grain size, lithology, compactness, cementation, strength, thickness, variability).
 4. Special physical or chemical features (e.g., indications of volume change or instability, such as expansive clays or peat).
 5. Other significant engineering geologic characteristics or concerns.
- d. Surface and shallow subsurface hydrologic conditions, including groundwater, springs, and streams and their possible effect on site. Indicate how conditions may be affected by variations in precipitation, temperature, etc.

1. Distribution, occurrence, and variations (e.g., drainage courses, ponds, swamps, springs, seeps, aquifers).
 2. Identification and characterization of aquifers; depth to groundwater and seasonal fluctuations, flow direction, gradient, recharge and discharge areas.
 3. Relationships to topographic and geologic features.
 4. Evidence for earlier occurrence of water at localities now dry (e.g., vegetation, mineral deposits, historic records).
 5. Other significant engineering geologic characteristics or concerns, such as fluctuating water table and the effects of proposed modifications on future hydrologic processes.
- e. Seismic considerations.
1. Description of the seismotectonic setting of the area (including size, frequency, and location of historic earthquakes), current seismic zoning, and expected seismic risk.
 2. Potential for area to be affected by surface rupture (including sense and amount of displacement, and width of surface deformation zone).
 3. Probable response of site to likely earthquakes (estimated ground motion).
 4. Potential for area to be affected by earthquake-induced landslides or liquefaction.
 5. Potential for area to be affected by regional tectonic deformation (subsidence or uplift).
4. Assessment of Geologic Factors Assessment of existing geologic conditions and processes with respect to intended use of the site constitutes the principal contribution of the report. It involves 1) the effects of the geologic features upon the proposed grading, construction, and land use, and 2) the effects of these proposed modifications upon future geologic conditions and processes in the area.

The following checklist includes topics that ordinarily should be considered in discussions, conclusions, and recommendations in geologic reports:

- a. General suitability of proposed land use to geologic conditions.
 1. Areas to be avoided, if any, and mitigation alternatives.
 2. Topography and slope.
 3. Stability of geologic units.
 4. Flood and tidal inundation, erosion, and deposition.
 5. Problems caused by geologic features or conditions in adjacent properties.
 6. Problems related to coastal erosion.
 7. Other general problems.
- b. Identification and extent of known or probable geologic conditions which may result in risk to the proposed land use (such as flood inundation, shallow groundwater, storm surge, surface- and groundwater pollution, snow avalanche, landslide, debris flow, rock fall, expansive soil, collapsible soil, subsidence, erosion, deposition, earthquake shaking, fault rupture, tectonic deformation, liquefaction, seiche, tsunami, volcanic eruption).
- c. Recommendations for site grading:
 1. Prediction of what materials and structural features will be encountered in proposed cuts.
 2. Prediction of stability based on geologic factors; recommended avoidance or mitigation alternatives to cope with existing or potential landslide masses.
 3. Excavation considerations (hard or massive rock, groundwater flows).

4. General considerations of proposed fill masses in canyons or on hillsides.
 5. Suitability of on-site material for use as compacted fill.
 6. Recommendations for positioning fill masses, provision for subdrainage, buttressing, and the need for erosion protection on fill slopes.
 7. Other recommendations required by the proposed land use, such as the angle of cut slopes, position of drainage terraces, need for rock-fall and/or erosion protection on cut slopes.
- d. Drainage considerations.
1. Protection from inundation or wave erosion along shorelines.
 2. Soil permeability, suitability for septic systems.
 3. Protection from sheet flood or gully erosion, and debris flows or mud flows.
- e. Limitations of study, and recommendations for additional investigations. Considering the scope of work and intended use of the site, provide a statement of the limitations of the study and the need for additional studies outside the stated scope of work.
1. Borings, test pits, and/or trenches needed for additional geologic information.
 2. Percolation tests needed for design.
 3. Program of subsurface exploration and testing that is most likely to provide data needed by the soils or civil engineer.
 4. Program for long-term monitoring of the site to evaluate geologic conditions (survey hubs, inclinometers, extensometers, etc.).
5. Conclusions and Recommendations. The reports shall provide a concise set of conclusions and recommendations, including specifics regarding the acceptable locations of structures (addressing setbacks where appropriate) and the acceptable nature and density of development.
6. Inspection and Monitoring. Reports shall specify inspections and/or monitoring required to verify that the development and construction on the site have been completed according to the recommendations contained in the report. Inspection records and/or “as built” certifications shall be provided for all Geologic Hazard Reports.

Section 13.060. Determination of Compliance. Geologic Hazard Reports submitted for review in accordance with Article 10, shall be reviewed by the Planning Commission, which shall determine whether the Report addresses the provisions of this Article as it reviews the entire application. Land use applications before the Planning Commission shall not be approved until such a determination has been made. Regardless of approval by the City, liability remains with the report signator and the applicant, who must conform with the report’s requirements. Signed acceptance of this liability shall accompany the permit application.

In determining compliance, the Planning Commission shall evaluate:

1. if the report appears to adequately recognize the causes, extent, and potential of the hazards and conforms substantively with the requirements found in Section 13.055.
2. if the recommendations to overcome the recognized hazards are set out clearly and specifically and are included in the engineered plans of the development.

3. if the Geologic Hazard Report indicates that possible future danger may exist from a hazard, the Applicant or Property Owner shall complete and sign the Declaration of Covenants and Conditions of Responsibility and Indemnity (The Declaration) provided by the City. Prior to issuance of a building permit, the Applicant or Property Owner shall execute and record the Declaration in the deed records of Lincoln County, Oregon.
4. if the Geologic Hazard Report and the associated plans contain the signature and professional stamp of a licensed geologist or engineering geologist qualified to certify such reports and plans.
5. authorization of a Geologic Hazards Permit shall be void after five (5) years unless substantial construction pursuant thereto has taken place. *(added 5/4/10-ORD 287)*

Section 13.070. Provisions for Additional Information. There may be instances in which specific sites within the area mapped “as having significant slopes” may have topography not exceeding the 20% criterion. Property owners who can demonstrate, through a survey completed within a calendar year of the date of application by a surveyor registered in the State of Oregon, that their property, or the specific site to be developed, has slopes of less than 20% shall be exempt from any requirements pertaining to that specific characteristic.

Section 13.080 Calculation of Coastal Setbacks. Two areas shall be considered in establishing Coastal Setback requirements and may simultaneously apply to a given piece of property:

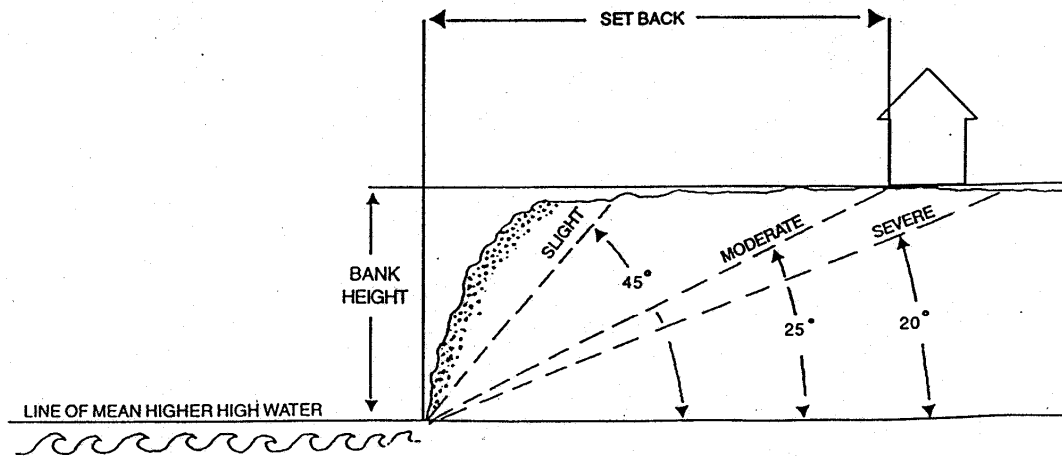
1. Areas of Coastal Erosion: The following categories of coastal erosion are recognized (coastal erosion rates and the methodology used are outlined in the document entitled “Geologic Hazards Associated With Lincoln County Coastal Shoreline,” prepared by CH2M Hill, Inc., and RNKR Associates, 1977) :

- Less than 2.8 inches/year slight
- 2.8 to 11.3 inches/year moderate
- More that 11.3 inches/year severe

The following coastal setbacks are required for the categories listed above in order to limit the need for structural solutions to coastal erosion. All setbacks shall be measured from the Mean Higher High Water Line and/or the base of the bank, whichever requires the greater setback.

- Slight Erosion 1 foot of setback for each 1 foot of bank height
- Moderate Erosion 2.15 feet of setback for each 1 foot of bank height
- Severe Erosion 2.75 feet of setback for each 1 foot of bank height

Example of how to Determine Geologic Setback on following page



2. Areas of Visual Concern: This is an area 25 feet landward from the top of a coastal bluff measured on the horizontal, where the top of bluff is the uppermost break in slope (see diagram in 1. above). Where there is no coastal bluff or no clear break in slope, for example on a smoothly sloping lot, the area of visual concern is an area 25 feet landward (measured on the horizontal) from the line of mean higher high water or the line of non-aquatic vegetation, whichever is the furthest landward.

Section 13.081 Prohibited Activities in Coastal Setbacks.

1. In the Areas of Coastal Erosion no excavating, filling, or placement of retaining walls, deck posts or other permanent structures is allowed, unless based on a Geological Hazard Report approved by the Commission. Vegetation removal is also prohibited except as allowed in Section 13.081(2) below with prompt replacement with plants that will stabilize the ground. In this area such vegetation removal must be in accordance with any required Geological Hazard Report and with a landscaping plan adequately addressing ground stabilization.
2. In the Areas of Visual Concern no grading, excavating, or filling that changes the profile of the top of the bluff or the slope seaward from its top; vegetation removal; or placement of a building is allowed except for:
 - a. minor pruning to maintain views
 - b. removal of brush and trees smaller than six (6) inches in diameter measured 4 feet above ground in preparation for prompt landscape replanting in the area landward from the top of the bluff
 - c. removal of vegetation within 10 feet of a building allowed per Section 13.081(1) above
 - d. placement of benches, tables and chairs
 - e. placement of a single gazebo, provided such a structure is less than 100 square feet in size

If a Geological Hazard Report is required per Section 13.081(1) above, any vegetation removal or gazebo placement must comply with this section and recommendations of the Geological Hazard Report.

ARTICLE 14. LAND DIVISION

(4/6/76-ORD 24-EFFECTIVE DATE, amended 4/6/04-ORD 256-LAND DIVISION, formerly PARTITION & SUBDIVISION ORD 57-6/4/79, ORD 87-3/15/82, ORD 111-5/21/84, ORD 153-7/16/90, ORD 155-9/17/90, 5/4/10-ORD 287)

Section 14.010. Purpose: As authorized by law, including ORS Chapter 92, the following requirements and standards relating to the division of land apply to all land within the City of Depoe Bay. This Article is necessary for the protection of the health, safety and welfare of the city's citizens, and is designed to promote coordinated and appropriate development of land and to carry out the City's comprehensive plan. These regulations have the following objectives:

1. To allow for the proper location of utilities.
2. To specify the width, location and improvement of streets.
3. To provide for adequate sewage disposal facilities.
4. To provide for adequate water supplies.
5. To provide for adequate drainage facilities.
6. To reduce danger from geologic hazards, floods, fire and pollution.
7. To provide for adequate open space.

Section 14.011. Exceptions for Section 3.410 - Planned Developments: The provisions of Article 14, Sections 14.010 through 14.080, shall be applicable to Section 3.410, Planned Developments, unless expressly contrary to a specific provision of Section 3.410.

Section 14.020. Approval Of Partitions:

1. A partition of land shall not be valid until it has been approved and recorded as provided for in this Article. No person shall convey any interest in a parcel in any partition, or replat of a partition, until the plat of the partition has been recorded as provided for in this chapter. A person may negotiate to sell any parcel in a partition or replat of a partition upon approval of the tentative plan of the partition.
2. A person may negotiate to sell any parcel in a partition prior to the approval of the tentative plan for such partition, however, no person may sell any parcel in a partition prior to tentative approval
3. No building permits shall be approved for any parcel in a partition until the partition has been recorded.
4. Partitions shall not be approved that will create a lot smaller than the minimum lot dimensions for the zone in which the partition occurs. If a road divides a parcel, the land on each side of the road shall be considered separately for purposes of calculating minimum lot sizes.

Section 14.030. Approval of Subdivisions:

1. No plat or replat of a subdivision of land shall be recorded or have any validity unless and until it has the approval of the City, as provided for in this article.
2. No person shall negotiate to sell any lot in a subdivision until a tentative plan of that subdivision has been approved, however, no person shall sell any lot in the subdivision prior to final subdivision approval.
3. No person shall dispose of, transfer, or sell any lot in any subdivision until final approval is obtained and the plat of that subdivision recorded.
4. Approval of Property Line Adjustments: No person shall accomplish a property line adjustment without having first secured the approval of the city as provided for in this chapter.
5. Approval of Street or Road Creations.
 - a. No person shall create a street or road for the purpose of partitioning an area or tract of land without the approval of the City as provided for in this chapter.
 - b. No instrument dedicating land to public use shall have any validity unless such instrument bears the approval of the City as accepting such dedication.

Section 14.040. General Requirements and Minimum Standards of Development Design: The following are the minimum requirements and standards to which subdivisions and partitions must conform:

1. Conformity to the Comprehensive Plan: All subdivisions and partitions shall conform to applicable portions of Article 13, the City's Development Guidelines, and the purposes of the goals and policies of the Comprehensive Plan.
- ~~2. Performance Agreement: (deleted 5/4/10-ORD 287)~~
2. Relation to Adjoining Street System: If development of a subdivision or partition would otherwise impede or interfere with access to or through existing streets and rights of way, a subdivision or partition shall provide for the continuation of said streets and rights-of-way. If physical conditions make such continuation impractical, exceptions may be made.
 - a. If the City finds that the off-site effects of a subdivision warrant the necessity of improved streets or rights-of-way, the City may require that the subdivision or partition provide for them. If no such off-site effects are found, the City may require that the lay-out of the subdivision or partition take into account the future development of streets and rights-of-way with regard to setback, access, parks and open spaces, as well as other requirements of this Article.
 - b. When a tract is divided into lots or parcels of a size which could allow for further re-division under current zoning, the City may require an arrangements of lots and streets such as to permit a later redivision in conformance with the street requirements and other requirements contained in this Article.

3. Access:

- a. A subdivision, partition or replat shall provide each lot or parcel with not less than 25 feet of frontage on a public or private road or street, except that where necessitated by adverse sight distances or other factors, greater frontage may be required.
- b. A subdivision or partition shall consider vehicular access to the parcel off existing or proposed roads that addresses traffic congestion, speed, stop signs and turn lanes for the orderly development of traffic accessing the area.

4. Private Streets:

- a. No street or road which would serve as a collector from existing public streets shall be approved as a private street.
- b. The establishment of a private street shall not be allowed if it will deny the public access to public areas such as beaches or parks.
- c. No road or street shall be approved as a private road in a case where such a road or street presently is or will in the future be needed to provide access to development on adjacent properties or to serve as a collector for other subdivisions or partitions in the area.
- d. All private streets or roads established for the purpose of subdividing, partitioning or replatting land shall be surveyed and monumented.
- e. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.
- f. Private road rights-of-way may be approved of less than 50 feet in width but in no instance shall the road right-of-way be less than 30 feet, except that a private road to two lots may be 20 feet in width. In instances where the road access to more than three lots is less than 50 feet in width, utility/slope easements may be required.
- g. Private road standards shall be the same as those for public streets. No more than three lots shall be exempt from standards for improvements.

5. Public Streets:

- a. Right-of-way and improvement requirements for public streets shall conform to the widths as specified in Sections 14.070 and 14.080 of this Article.
- b. If topographical requirements necessitate either cuts or fills for the proper grading of roads, additional right-of-way or slope easements shall be provided.
- c. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this ordinance.
- d. Street improvements, street grades and center line radii on curves shall meet the minimum requirements as specified in Sections 14.070 and 14.080 of this Article.

- e. The City of Depoe Bay shall only be responsible for maintenance of a public street when the street is accepted by the City Council through dedication. A street that is accepted by the City Council through dedication shall be referred to as a "City Street." (*added 5/4/10-ORD 287*)
6. Street Intersections.
- a. Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.
 - b. Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections.
7. Cul-de-Sacs and Turnarounds.
- a. Dead-end (cul-de-sac) streets in partitions and subdivisions shall terminate in a turnaround with a minimum property line radius of forty (40) feet, or other type of turnaround approved by the City.
 - b. Approved turnarounds shall be provided on all dead-end streets.
 - c. No dead-end street may be established without Fire Marshall approval.
8. Easements. Where alleys are not provided, easements of not less than six (6) feet in width may be required on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainage ways or channels.
9. Blocks. Normally no block shall be longer than six hundred (600) feet between street lines. Approval for longer blocks can be given where topographical conditions constrain development.
10. Public Access Ways. When necessary for public convenience and safety, the Planning Commission may require the developer to dedicate to the public reasonable access ways to connect to cul-de-sacs, pass through oddly shaped blocks, provide for networks of public paths according to adopted plans, or to provide access to schools, parks, beaches or other public areas, or for other such design and location as reasonably required to facilitate public use. A subdivision, partition or replat shall maintain existing public access points to shore lands as required by Section 3.360.5.d. Such access points shall be ascertained as follows:
- a. By examination of a standard title report;
 - b. By consulting City inventory of such points; or
 - c. Through presentation of other lawful information.
11. Lots and Parcels.
- a. Every lot/parcel shall abut a public street or private road. A flag lot with the staff that does not comply with the required minimum lot widths for the zone it is located in is permitted, but the staff measurement shall not be less than 25 feet minimum frontage.

- b. Each side line shall be as close to perpendicular to the adjacent street/road or radial to a curved street/road as possible.
 - c. Lots/parcels with double frontage shall not be permitted unless, in the opinion of the City, the physical characteristics of the land prohibit any other plan for a subdivision.
 - d. The staff portion of a flag lot shall not be used in computing lot size for zoning and building purposes.
12. Utility Easements.
- a. Where alleys are not provided, easements of not less than ten (10) feet in width may be required on side or rear lines if determined to be necessary for utility lines, wires, conduits, storm and sanitary sewers, gas and water.
 - b. Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainage ways or channels.
13. Water. No partition or subdivision shall receive final approval unless the City has received and accepted:
- a. A certification by the City Superintendent, or such other City official as the City may designate, that water will be available to the boundary line of each and every lot or parcel depicted in the proposed Subdivision or partition; or
 - b. A performance agreement, bond, contract or other assurance that a water supply system will be installed to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.
14. Sewer. No partition or subdivision shall receive final approval unless the City has received and accepted:
- a. A certification by the City Superintendent, or other officials as the City may designate, that sewer will be available to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition; or
 - b. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the developer to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.
15. Surface Drainage and Storm Sewer.
- a. Drainage facilities shall be provided within subdivisions and partitions, and to connect the subdivision or partition drainage to drainage ways or storm sewer outside the subdivision or partition. The connection to the city system shall be engineered using standard practices and shall be approved by the city.
 - b. Design of drainage within subdivisions and partitions shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the development as well as to allow extension of the system to serve those areas.

16. Phase Development. A plat may be filed on a portion or phase of an approved tentative plan. Each phase of a subdivision must be able to qualify for approval independent of the balance of the approved tentative plan.
17. Geologic Hazards. All land divisions shall comply with the procedures and standards set forth in Article 13, where applicable.
18. Parks and Open Spaces. Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park or natural land, for use by the residents of the subdivision.

Section 14.050. Dedication of Public Streets Application. Any person wishing to create a public road or street which is not a part of a subdivision shall make written application to the City Council. The application shall consist of a letter addressed to the Council requesting acceptance of the dedication; a dedication deed with a proper description of the proposed dedication signed by all owners of the property being dedicated; a map showing the proposed road and property intended to be served by the road.

Section 14.051. Review. The City Council shall refer the dedication application to the following:

1. The City Superintendent, or other designated person, who shall check the proposal for grade and conformance to City road standards;
2. A title insurance company for a standard preliminary title report;
3. The City Planning Commission which shall review the proposal for compatibility with the City's Comprehensive Plan, Transportation Plan, and any adjacent approved tentative plans, plats, or maps.

Section 14.052. Approval.

The above reports shall be forwarded to the City Council along with the application for dedication. The dedicator shall furnish a standard title insurance policy insuring title of the dedicated street to the City. A public street will not be maintained by the City unless that street is accepted by the City into the City's road system.

Section 14.060. Procedure for Insuring Completion of Roads and/or Utilities in Subdivisions and Partitions

1. The developer's engineer will prepare cost estimates for completion of roads and/or utilities. Road cost estimates shall be based upon road standards as designated herein. All cost estimates shall be stamped by a registered professional engineer, licensed in the State of Oregon.
2. All estimates shall be submitted to the City Superintendent; water and/or sewer cost estimates shall be sent to the water and sewer department for review and approval.

3. The City Superintendent shall notify the developer as to the amount of bond or other performance agreement required and as to any changes necessary for bond acceptance or other performance agreement.
4. The developer shall submit the bond or performance agreement and three copies thereof written in favor of the City of Depoe Bay to City Hall for approval.
5. Upon completion of construction of roads and utilities, the applicant's engineer shall certify that such improvements are built to the standards approved. This certification of completion shall be submitted prior to the release of any bond or performance agreement.

Section 14.070. Street Width in Subdivisions and Partitions.

<u>TYPE OF STREET</u>	<u>RIGHT OF WAY WIDTH</u>	<u>SURFACE WIDTHS</u> +
1. Arterials	80' to 150' ++	40' to 52' ++
2. Collector Streets and all streets other than Arterials_	40' to 50' ++	28' to 38' ++
3. Cul-de-Sacs	40'	28'
4. Circular Ends of Cul-de-Sacs	80' +++	60' +++

+ Surface width is that measured from face to face of curbs or shoulders.

++ The Planning Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public and the traffic needs of the community.

+++ Measured by diameter of circle constituting circular end.

Section 14.080. Street Improvements in Subdivisions and Partitions. Improvements shall meet the following minimum standards unless increased at the request of the Planning Commission:

1. All streets shall be rough graded for the full surface width.
2. All streets shall have a minimum of eight (8) inches of base material to a minimum width of twenty eight (28) feet.
3. All streets shall have a leveling course of 3/4" crushed rock, two (2) inches deep compacted.
4. All streets shall be paved with two (2) inches of asphalt concrete to a minimum of the width required by the Planning Commission.

Section 14.090. Procedure for Subdividing, Partitioning or Replatting Land:

1. Pre-Application Conference: Prior to submitting a tentative plan of a subdivision, partition, or replat, the applicant should confer with the City Planner regarding the requisites of the tentative plan application and the applicable standards and criteria of the Depoe Bay Zoning Ordinance.
2. Tentative Plan Requirements: The submitted tentative plan for a subdivision, partition, or replat shall contain all of the information listed on the applicable City of Depoe Bay application form. If the proposal includes new access from a state highway, the applicant shall submit documentation that the Oregon Department of Transportation will be willing to issue the requested road approach permits.
3. Tentative Plan Application and Review for Subdivisions and Partitions: The procedure for application and review of the tentative plan of a subdivision, and the procedure for application and review of the tentative plan for a partition shall be as set forth in Article 10, Section 10.025(3). *(replaced 5/4/10-ORD 287)*
4. Tentative Plan Application and Review for Replats:
 - a. The procedure for review and approval of the tentative plan shall be set forth in Article 10, Section 10.025(3).
 - b. For replats of previously recorded partition plats, the procedure for review and approval of the tentative plan shall be as set forth in Article 10, Section 10.025(1).
5. Time Limit for Tentative Approval: Approval of a tentative plan in accordance with this section is valid for a period of three years. A single time limit extension may be granted by the Planning Commission only if the development is substantially completed within the three year time period. A development is deemed to be substantially completed when utilities, streets, and drainage are in and stubbed to the lot line.
6. Revision of Tentative Plan: If an approved tentative plan for a subdivision is revised in any way, the Planning Commission shall review the proposed revisions to determine if a new application for tentative approval will be required. Such review will be limited to those issues impacted by the revision. If an approved tentative plan is substantially revised, such revision shall be filed as a new application for tentative plan approval.
7. Certifications Required for Final Approval: Requests for final approval of a subdivision, partition, or replat shall be accompanied by the following:
 - a. A copy of all covenants and restrictions.
 - b. Copies of all legal documents required for dedication of public facilities and/or for the creation of a homeowner's association.
 - c. The certification, bond, performance agreement, or statement regarding the installation of water and sewer services.
 - d. As-built certifications for all required roads and/or utilities unless otherwise guaranteed by a bond or performance agreement.

- e. A plat and one exact copy meeting the requirements of Section 14.100 and the applicable statute of the latest ORS. *(replaced 5/4/10-ORD 287)*
 - f.
 - f. When access from a State Highway is proposed, a copy of the approach road permit issued by the Oregon Department of Transportation confirming that all required improvements have been satisfactorily completed.
 - g. Such other information as is deemed necessary by the City Planner or Commission to verify conformance with the conditions of tentative approval.
8. Procedure for Final Approval of Partitions:
- a. The procedure for application and review of a request for final approval of a partition shall be as set forth in Article 10, Section 10.025(1). All such applications shall be accompanied by the certifications set forth in Section 14.090(7).
 - b. Upon granting of final approval, the City Planner shall sign the plat and its exact copy.
 - c. Upon signing, the City Planner shall deliver the plat and its exact copy to Lincoln County Surveyor who shall follow established procedures for obtaining recordation of the plat.
9. Procedure for Final Approval of Replats:
- a. If the proposed replat involves three (3) lots or less and is for the purpose of lot boundary changes only, procedure for review of final approval shall be as set forth in Article 10, Section 10.025(1).
 - b. If the proposed replat involves four (4) lots or more or includes changes to street rights-of-way, utilities, or any other features besides boundary lines, procedures for review of final approval shall be as set forth in Article 10, Section 10.025(2).
 - c. Following the signature of the City Planner or Planning Commission Chairperson, the City shall deliver the replat and its exact copy to the Lincoln County Surveyor who shall follow established procedures for obtaining recordation of the plat.
10. Procedure for Final Approval of Subdivisions:
- a. When the City Planner determines that all of the certifications set forth in Section 14.090(7) have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the agenda of the next scheduled meeting of the Planning Commission for determination that all requirements have been met. The Commission shall then approve, disapprove for cause, or, when further information is required, postpone a decision on the plat.
 - b. Unless appealed, the decision of the Planning Commission shall become effective 15 days after the decision is rendered. When the approval becomes effective, the Planning Commission Chairperson shall sign the plat and its exact copy.
 - c. Following the Planning Commission Chairperson's signature, the City shall deliver the plat and its exact copy to the Lincoln County Surveyor. The County Surveyor shall review the plat for conformance with the requirements of Section 14.100 and the provisions of the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*

- d. Upon approval of the County Surveyor, subdivision plats shall be circulated for signing to the following officials:
 - (1) The County Treasurer, whose signature shall certify that all taxes on the property have been paid;
 - (2) The County Assessor, whose signature shall certify that the plat is signed by the owner or owners of record.
- e. Upon signing by the County Treasurer and County Assessor, subdivision plats shall be delivered to the County Clerk for recording.
- f. The signature of the Chairperson on the final subdivision plat shall be valid for a period of one year. If a plat has not been recorded within one year of the date of the Chairperson's signature, the final approval of the plat shall expire, and a new request for final approval shall be required.

Section 14.100. Plat Requirements:

- 1. Requirements of Survey Plats: The surveys and plats of all subdivisions, partitions and replats shall be made by a registered professional land surveyor and shall conform to the requirements of the applicable statute of the latest ORS. *(amended 5/4/10-ORD 287)*
- 2. Encroachment or Hiatus: In the event that any encroachment, hiatus or property line discrepancy exists on the property to be platted, such encroachment, hiatus or discrepancy shall be clearly shown on the plat.
- 3. Elevation Bench Marks: Where required, the location, name and elevation of any elevation bench marks shall be indicated on the face of the plat. The name, year, and elevation of the bench mark upon which the elevation is based shall also be shown.
- 4. Easements: All recorded and proposed easements will be shown on the plat, along with the following information:
 - a. The specific location and size by dimensions or description.
 - b. If previously recorded, the County Clerk's recording reference.
 - c. The purpose or type of easement and whether it is a public or private easement and, if private, who benefits from the easement. Any public or private easement to be created, or any other restriction made, shall be noted in the declaration. Public easements shall include language in the declaration which dedicates the easement to the use of the public.
- 5. Exceptions:
 - a. Parcels created in excess of 80 acres need not be shown on a partition plat.
 - b. Parcels in excess of ten acres created by partition plat need not be surveyed or monumented.

Section 14.110. Standards and Procedures for Property Line Adjustments:

1. Tentative Approval:

- a. The procedure for application, review, and tentative approval of property line adjustments shall be as set forth in Section 10.025(1).
- b. A property line adjustment shall be tentatively approved provided that:
 - (1) No additional lots or parcels will be created; and
 - (2) The subject lots, parcels or tracts of land will not be reduced in size to below the minimum area required by the applicable use zone; and
 - (3) The proposed lots, parcels or tracts of land as adjusted will comply with any required minimum width requirement as set forth in the applicable use zone; and
 - (4) The proposed property line adjustment will not reduce any yard or other setback below that required under applicable zoning; and
 - (5) The proposed property line adjustment will not reduce the street or road frontage of the subject lots or parcels to below that required by the City of Depoe Bay Code; and
 - (6) The proposed property line adjustment will not reduce any setback for an existing on-site sewage disposal system or approved replacement area below the required minimum; and
 - (7) The proposed property line adjustment will not increase the degree of non-conformity on vacant lots, parcels, or tracts that do not conform to lot size, width, or depth requirements, or on developed lots if the increase in non-conformity results in adjacent property becoming further dividable. The proposed property line adjustment will not increase the degree of non-conformity for required yards.
- c. Tentative approval of a property line adjustment is valid for a period of one year. Tentative approval may be extended by the City Planner prior to expiration of tentative approval. Requests shall specify reasons for requiring a time extension, along with a specific plan and timeline for completion. Only one (1) time extension of up to one (1) year may be granted.

2. Final Approval:

- a. The procedure for application, review and final approval of property line adjustments shall be as set forth in Article 10, Section 10.025(2).
- b. Final approval of a property line adjustment shall be granted upon submittal of the following:
 - (1) A copy of a filed survey of the property line adjustment in accordance with the applicable statute of the latest ORS and in substantial conformance with the tentative approval, except that property line adjustments where all lots, tracts or parcels affected are greater than 10 acres need not be surveyed or monumented. (*amended 5/4/10-ORD 287*)

- (2) Copies of recorded conveyances conforming to the tentatively approved property line adjustment and containing the names of the parties with proper acknowledgment.
- (3) Such other documentation as may be required by the City Planner to verify conformance with any requirements or conditions of the tentative approval.

Section 14.120. Property Line Adjustments in Subdivisions and Partitions:

1. Except as provided for herein, all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 14.090.
2. Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments rather than by replatting, when the City Planner determines that:
 - a. The property line or lines to be adjusted will not result in a substantial reconfiguration of the affected lots or parcels so as to render them unsuitable for their previously approved purpose;
 - b. The property line or lines to be adjusted will not result in an increase in lots;
 - c. The property line or lines to be adjusted will not reduce the common open space or park and recreational acreage;
 - d. All of the other requirements for property line adjustments set forth in Section 14.010 will be met.