

**CODE OF ORDINANCES OF THE  
CITY OF SEASIDE  
Chapter 158**

CITY OF SEASIDE  
**ZONING ORDINANCE**  
No. 83-10

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**SEASIDE ZONING ORDINANCE**  
**83-10**  
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## ARTICLE 1 INTRODUCTORY PROVISIONS

### Section 1.010 TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance of Seaside, Oregon."

### Section 1.020 PURPOSE

The purpose of this Ordinance is to further the objectives and goals of the Comprehensive Plan and to provide the public health, safety and general welfare of the citizens of Seaside through orderly community development with considerations for: Desirable concentrations of population; protection of property values; aesthetic, recreational and economic development; limitation of dangerous or offensive trades or industries; maintenance of adequate open space for light and air and emergency access; provisions for access and privacy; facilitate community utilities such as transportation, power, water and sewage; and to adequately provide for community facilities such as schools, parks, community centers, and other public requirements.

### Section 1.030 DEFINITIONS

**Access:** The place, means, or way by which pedestrians or vehicles shall have safe, adequate and usable ingress and agree to a property, use or parking space.

**Accessory Dwelling Unit (ADU):** An interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. Unlike a guesthouse, an ADU will include a kitchen and function as an independent dwelling unit.  
*(Updated per Ord. 2018-09)*

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

**Accretion:** The build-up of land along a beach or shore by deposition of waterborne sand, sediment, or other material.

**Agriculture:** The tilling of the soil, the raising of crops, dairying, pasturage, horticulture, animal and poultry husbandry, and the necessary accessory uses that are appropriate for the operations of commercial agriculture enterprise.

**Alley:** A minor public right-of-way, which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**Alter:** A change, addition, or modification in construction or occupancy of a building or structure.

**Amendment:** A change in the wording, context, or substance of Sections 1.010 to 12.020, or a change in the zone boundaries or area district boundaries upon the zoning map.

**Aquaculture:** The raising, feeding, planting and harvesting of fish and shellfish, including associated facilities necessary to engage in the use.

**Automobile Service Station:** A retail place of business primarily engaged in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting or body and fender work.

**Basement:** Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

**Beach:** Gently sloping areas of loose material (e.g., sand, gravel, and cobbles) that extend landward from the low-water line to a point where there is a definition to change in the material type or land form, or to the line of vegetation.

**Boarding, Lodging or Rooming House:** A building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily by persons paying consideration for sleeping purposes where meals may or may not be provided. This definition shall not include motels, hotels, motor hotels, tourist courts, residential facilities or residential homes.

**Bridge Crossing:** The portion of a bridge spanning a waterway or wetlands, not including supporting structures or fill.

**Bridge Crossing Support Structure:** Piers, piling, and similar structures necessary to support a bridge span but not including fill for causeways or approaches.

**Building:** A structure built and maintained for the support, shelter or enclosure of person, motor vehicles, animals, chattel, or personal or real property of any kind. The word "building" shall include the word "structure".

**Building Height:** The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

**Building Line:** A line that coincides with the front side of the main building.

**Building Official:** The superintendent of the building department or his designate.

**City:** The City of Seaside, Oregon.

**Condominium:** Multiple dwellings in which the dwelling units are individually owned with each owner having a recordable deed enabling the unit to be sold, mortgaged or exchanged independently.

**Court:** An open unoccupied space, other than a yard, on the same lot with a building and bounded on three or more sides by such a building.

**Day Nursery:** Any institution, establishment, or place other than a Family Day Care Provider, in which are commonly received at one time 13 or more children not of common parentage, under the age of six years, for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

**Deflation Plain:** The broad interdune area which is commonly scoured to the level of the summer water table.

**Dock/Moorage:** A pier or secured float or floats for boat tie-up or other water use, often associated with a specific land use on the adjacent shore land, such as a residence or group of residences. Float houses, which are used for boat storage, net-drying and similar purposes, are also included in this category.

**Dredging:** Removal of materials from a wetlands or body of water for channel deepening, realignment, boat basin or other uses.

**Dune:** A hill or ridge of sand built up by the wind along sand coasts.

**Dune, Active:** A dune that migrates, grows, and diminishes from the effect of wind and supply of sand. Active dunes include all open sand dunes, active hummocks, and active foredunes.

**Dunes, Conditionally Stable:** A dune presently stable from wind erosion, but vulnerable to becoming active due to fragile vegetation cover.

**Dunes, Older Stabilized:** A dune that is stable from wind erosion, that has a significant soil development, and that may include diverse forest cover. Includes older foredunes.

**Dune, Open Sand:** A collective term for active, unvegetated dune landforms.

**Dune, Recently Stabilized:** A dune with sufficient vegetation to be stabilized from wind erosion but with little if any development of soil or cohesion of the sand under the vegetation. Recently stabilized dunes include conditionally stable foredunes, conditionally stable dunes, dune complexes, and younger stabilized dunes.

**Dunes Younger Stabilized:** A wind stabilized dune with weakly developed soils and vegetation.

**Dune Complex:** Various patterns of small dunes with partially stabilized intervening areas.

**Dune Grading:** Reconfiguration of existing foredune areas using earth-moving equipment.

**Dune Nourishment:** Augmentation of the natural sediment supply within a foredune area.

**Dwelling, Apartment or Multiple-Family:** A building designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.

**Dwelling, Single Family:** An attached or detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for one family.

**Dwelling, Two Family (Duplex):** A building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

**Dwelling Unit:** One or more rooms designed for occupancy by one family and not having more than one cooking facility except facilities designed for camping purposes, such as tents and recreation vehicles.

**Family:** One person or two or more persons related by blood, marriage, legal adoption, or guardianship; or a group of not more than five persons (excluding employees) all or part of whom are not related by blood, marriage, legal adoption or guardianship, living together as a single housekeeping unit in a dwelling unit.

**Family Day Care Provider:** A day care provider who provides day care in the provider's home, in the family living quarters, to no more than 12 children including children of the provider, regardless of full time or part time status.

**Fence:** A screen or barrier consisting of wood, metal, masonry, or similar materials, or a line of plantings or trees, arranged in such a way to afford privacy or block vision onto property.

**Fill:** Fill is the replacement by man of sediment or other material in an aquatic area (which may create new shorelands) or on shorelands to raise the elevation of the land.

**Floor Area:** The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls, or from the centerline of wall separating two buildings, but not including:

1. Attic space providing headroom of less than seven feet;
2. Basement or cellar;
3. Uncovered steps or fire escapes;
4. Private garages, carports, or porches;
5. Accessory water towers or cooling towers; and
6. Accessory off-street parking or loading spaces.

**Foredune, Active:** An unstable barrier ridge of sand paralleling the beach and subject to wind erosion, water erosion, and growth from new sand deposits. Active foredunes may include areas with beach grass, and occur in sand spits and at river mouths as well as elsewhere.

**Foredune, Older:** A conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development.

**Frontage:** Property abutting on a street.

**Grade, Ground Level:** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

**Home Occupation:** A lawful occupation or profession carried on by a resident of a dwelling as an accessory use within the same dwelling, and where the activity is conducted in such a manner as not to give the appearance of a business or infringe upon the right of neighboring residents to enjoy peaceful occupancy of their homes. An occupation or profession which has no customers or client coming to the home, and which complies with the listed home occupation standards, is not considered a home occupation for zoning purposes.

**Horticulture:** The cultivation of plants, garden crops, trees or nursery stock.

**Hospitals:** Institutions devoted primarily to the rendering of healing, curing and/or nursing care, which maintain and operate facilities for the diagnosis, treatment and care of two or more nonrelated individuals suffering from illness, injury, or deformity or obstetrical or other healing, curing, and/or nursing care is rendered over a period exceeding 24 hours.

**Hotel & Motel:** A building or group of buildings used for transient residential purposes containing four or more guest rooms which are designed to be used, or which are used, rented or hired out for sleeping purposes.

**Hummock, Active:** Partially vegetated, elevated mound of sand that is actively growing in size.

**Institution, Higher Educational:** A college or university accredited by the State of Oregon.

**Institutional Development Plan:** A detailed development plan that substantially complies with and implements one or more phases of an Institutional Master Plan (IMP) approved by the Planning Commission. An IDP shows the precise type, location and height of proposed structures, open space, landscaping, parking and circulation, and public infrastructure shown conceptually on approved IMP. *(Updated per Ord. 2017-12)*

**Institutional Master Plan:** A conceptual development plan that applies to all land under the control of an institution. An IMP identifies proposed uses, the general location and height of proposed structures, and the general location of areas devoted to open space, landscaping, parking and circulation, and public infrastructure. An IMP focuses on impacts that would likely result from institutional development during the life of the plan (up to 10 years) and must identify effective mitigation measures. *(Updated per Ord. 2017-12)*

**Junk or Wrecking Yard:** Any property where a person is engaged in breaking up, dismantling, sorting, storing, distributing, buying or selling any scrap or waste material.

**Kennels:** A lot or premise on which dogs more than six months of age are kept commercially or permitted to remain for board, propagation, training, or sales, except for veterinary clinics and animal hospitals.

**Lawfully Existing Nonconforming Use:** A lawful use existing prior to the time of adoption of this ordinance or the effective date of any amendment thereto, which does not conform to the current requirements of the zone in which it is located.

**Lawfully Existing Nonconforming Structure:** A lawful structure existing prior to the time of adoption of this ordinance or the effective date of any amendment thereto, which does not conform to the current requirements of the zone in which it is located.

**Littoral Drift:** Material moved in the shallow near shore by waves and currents.

**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 ingress and egress.

**Lot:** For the purpose of this ordinance, lot means a parcel of land used or capable of being used under the regulations of this ordinance, lawfully created as such in accordance with the subdivision laws or ordinances in effect at the time of its creation.

**Lot Coverage:** The area covered by a building or buildings on a lot, expressed as a percentage of the total lot area.

**Lot Depth:** The horizontal distance between the front and the rear lot lines. In the case of a corner lot, the depth shall be the length of its longest front lot line. In the case of lots where the horizontal distance between front and the rear lot lines differ along the side lot lines, the average of the length of the two side lot lines shall be considered the lot depth.

**Lot Line, Front:** For an interior lot, a line separating the lot from the street; and for a corner lot, a line separating either (but not both) frontage of the lot from the street.

**Lot Line, Rear:** For an interior lot, a line separating one lot from another on the opposite side of the lot from the front lot line; for corner lots, either (but not both) interior lot line separating one lot from another; and for an irregular or triangular shaped lot, a straight line 10 feet in length that is parallel to and at the maximum distance from the front lot line.

**Lot Line, Side:** For interior lots, a line separating one lot from the abutting lot or lots fronting on the same street; for corner lots, a line other than the front lot line separating the lot from the street or a line separating the lot from the abutting lot along the same frontage.

**Lot Types:**

1. **Corner Lot** - A lot abutting on two or more streets other than an alley, at their intersections.
2. **Interior Lot** - A lot other than a corner lot with frontage on one street only.
3. **Through Lot** - A lot other than a corner lot with frontage on more than one street. Through lots may be referred to as "double frontage" lots.

**Lot Width:** The horizontal distance between the side lot lines measured at the building line.

**Manufactured Housing:** A manufactured dwelling is (as amended to be consistent with new definition in ORS 446.003):

1. A residential trailer, a structure constructed for movement on the public highway, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.
2. A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon Mobile Home Law in effect at the time of construction.
3. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

Manufactured dwelling does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450.

**Manufactured Dwelling Park:** (as amended in ORS 446.003 (27). Any place 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. "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 mobile home per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

**Marina:** Marinas are facilities which provide moorage, launching, storage, supplies and a variety of services for recreational, commercial fishing and charter fishing vessels. They are differentiated from docks/moorages by their larger scale and scope of landslide services.

**Minor Navigational Improvement:** Alterations necessary to provide water access to existing or permitted uses in conservation management units, including dredging for access channels and for maintaining existing navigation but excluding fill and in-water navigational structures other than floating breakwaters or similar permeable wave barriers.

**Mitigation:** The creation, restoration, or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary, such as its natural biological productivity, habitats and species diversity, unique features and water quality.

**Mobile Home:** A mobile home is:

1. A residential trailer, a structure constructed for movement on the public highway, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.
2. Mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962,

and June 15, 1976, and met the construction requirements of Oregon Mobile Home Law in effect at the time of construction.

3. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

**Mobile Home Park:** A mobile home park is a lot tract or parcel of land with four or more spaces for rent within 500 feet of one another.

**Navigation Structures:** Pile dikes, groins, fills, jetties and breakwaters that are necessary to maintain navigation channels, control erosion or otherwise improve water flow.

**Nonconforming Lot of Record:** A legally created lot or parcel legally created which now does not conform to the current minimum lot size, width, depth or frontage standards required by the zone in which the lot is now located or as otherwise required by the Ordinance. Also called nonconforming lot or nonconforming parcel.

**Nonconforming Structure:** A structure which does not conform to the current requirements of the zone in which it is located.

**Nonconforming Use:** A use which does not conform to the current requirements of the zone in which it is located.

**Ocean Flooding:** The flooding of lowland areas by salt water owing to tidal action, storm surge, or tsunamis (seismic sea waves). Land forms subject to ocean flooding include beaches, marshes, coastal lowlands, and low lying interdune areas. Areas of ocean flooding are mapped by the Federal Emergency Management Agency (FEMA). Ocean flooding includes areas of velocity flooding and associated shallow marine flooding.

**Owner:** Includes an authorized agent of the owner.

**Parcel:** In exclusive farm use zones, the term "parcel" includes a unit of land created:

1. By partitioning land as defined in ORS 92.101;
2. In compliance with all applicable planning, zoning, partitioning ordinances and regulations; or
3. By deed or sales contract, if there were no applicable planning, zoning, partitioning ordinances and regulations.

The term "parcel" does not include a unit of land created solely to establish a separate tax account.

**Parking Area, Public:** Privately or publicly owned property, other than streets or alleys, on which parking spaces are defined, designated, or otherwise identified for use by the general public, either free of charge or for remuneration. Public parking areas may include parking lots which may be required by this ordinance for retail customers, patrons and clients.

**Parking Space:** An area, paved pursuant to Seaside Ordinance 72-9 at least nine feet in width, 18 feet in length, available for the parking of a standard automobile. Compact parking space means an area of at least eight feet in width and 16 feet in length, available for the parking of compact automobiles.

**Person:** Any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

**Piling:** The driving of wood, concrete, or steel piling into the bottom of aquatic areas to support piers or docks, bridges or other permitted uses.

**Private Sports Complex:** A facility which provides recreation facilities indoors or outdoors, the use of which requires fees or paid membership fees for participants to use the facilities. Sports complexes include, but are not limited to, horse riding facilities, golf courses, racquet clubs, tennis courts, swimming pools and roller skating rinks.

**Recreational Vehicle:** A vacation trailer or other unit with or without motor power which is designed for human occupancy and to be used temporarily for recreational vacation purposes, but not residential use.

**Residential Facility:** A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with training or treatment or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**Residential Home:** A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with training or treatment or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

**Restoration/Estuarine Enhancement:** Restoration is replacing, revitalizing, or restoring original attributes and amenities, such as natural biological productivity and aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events. For the purpose of Goal 16, estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work begins.

**Active Restoration:** Involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas.

**Passive Restoration:** Is the use of natural processes, sequences, and timing to effect restoration after the removal or reduction of adverse stresses without other specific positive remedial action.

**Estuarine Enhancement:** An action which results in a long term improvement of existing estuarine functional characteristics and processes that is not the result of a restoration action or the creation of additional estuarine habitat.

**Sand Collection, Mechanical:** Use of fences or brush mats to collect and hold sand.

**School -- Commercial:** A place where instruction is given to pupils in arts, crafts, trades, or other occupation skills and operated as a commercial enterprise as distinguished from schools endowed or supported by taxes.

**School -- Primary, Elementary, Junior High, or High:** Includes public, private or parochial, but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

**Shoreline Stabilization:** The protection of the banks of tidal or nontidal streams, rivers or estuarine waters by vegetative or structural means.

**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 to a product, place, activity, person, institution, or business. Sign size limitations apply to only one side of a back-to-back sign.

**Sign, Advertising:** A sign which directs attention to business, product, activity, or service which is not necessarily conducted, sold, or offered upon the premises where a sign is located.

**Story:** That portion of a building included between a floor and the ceiling next above it, which is six feet or more above the grade.

**Street:** An officially approved public thoroughfare or right-of-way other than an alley, dedicated, deeded, or condemned, which has been officially approved by the commission and accepted by the council for use as such. It affords the principal means of access to abutting property, and includes avenue, place, way, drive, lane, boulevard, highway, road, or any other thoroughfare such as the Prom, except as excluded in this ordinance. The word "street" shall include all arterial highways, freeways, traffic collector streets, local streets and the Prom.

**Structure:** Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

**Temporary Alteration:** Dredging, filling, or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by an acknowledged plan. Temporary alterations may not be for more than three years and the affected area must be restored to its previous condition. Temporary alterations include: (a) alterations to establish mitigation sites, alterations for bridge construction or repair and for drilling or other exploratory operations, and (b) minor structures, such as blinds, necessary for research and educational observation.

**Time-Share Unit:** A dwelling unit, lot, or parcel divided into periods of time under any arrangement, plan, scheme or device, whether by membership, agreement, share-tenancy-in-common, sale, lease, deed, rental agreement, license, right-to-use agreement, or otherwise, where a purchaser, in exchange for consideration, receives a right to use the dwelling unit, lot, or parcel for a period of time less than a full year during any given year, which extends for a period of more than three years.

**Time-Share Unit - Pre-Existing:** A time-share unit which has already been created by the submission of the Public Report issued by the Real Estate Division of the Oregon Department of Commerce, on or prior to the effective date of this ordinance.

**Transitional Use:** A use allowed in a transitional area intended to create a gradual change in use from residential to commercial or industrial.

**Travel Trailer:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and having a body width not exceeding eight feet.

**Use:** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

**Utilities:** Towers, facilities and lines for communication and power transmission; waste water treatment facilities; storm water and treated water outfalls (including industrial); public water, sewer and gas lines; solid waste disposal.

**Vacation Rental Dwelling.** A single family dwelling, duplex or triplex which is rented or hired out for a period of less than 30 days. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling. However, each individual unit is to be considered separately for licensing and regulation purposes.

**Vegetative Stabilization:** Use of plants to secure bare sand surfaces against wind deflation.

**Vehicle:** A device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

**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.

**Wetland:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

**Yard:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward. However, fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front:** A yard extending between lot lines which intersect a street line, the depth of which is the minimum horizontal distance between the street line and a line parallel thereto on the lot. In the case of through-lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. In the case of corner lots, as well as those with reversed frontage, a front yard of the required depth shall be provided in accordance with the ordinance along with required side yard depths on all other frontages. In the case of corner lots with more than two frontages, the building official shall determine which frontage shall be considered the front yard and which shall be considered the side yards.

**Yard, Side:** A yard extending from the rear line of the required front yard to the rear lot line. In the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through-lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half depth front yards have been established shall be considered side yards.

**ARTICLE 2**  
**BASIC PROVISIONS**

**Section 2.010 COMPLIANCE WITH ORDINANCE PROVISIONS:**

A lot may be used and a structure or part of a structure constructed, reconstructed, remodeled, occupied or used only as this ordinance permits.

**Section 2.020 CLASSIFICATION OF ZONES:**

For the purpose of the ordinance, the following zones are hereby established in the City of Seaside:

<b><u>Zone Description</u></b>	<b><u>Abbreviated</u></b>
Exclusive Farm Use	EFU
Residential, Low Density	R-1
Residential, Medium Density	R-2
Residential, High Density	R-3
Resort-Residential	R-R
Residential, Commercial	R-C
Commercial, Neighborhood	C-1
Commercial, Resort	C-2
Commercial, General	C-3
Commercial, Central	C-4
Industrial	M-1
Planned Development	PD
Aquatic, Natural	A-1
Aquatic, Conservation	A-2
Coastal Lake & Freshwater Wetland	A-3
Flood Hazard (Ord. 79-21) as amended by Ord 86-23	FH
Active Dune/Interdune Overlay Zone	ADI
Airport Development	AD
Airport Safety Overlay Zone	H-1
Open Space Parks & Recreation	OPR
Suburban Residential	SR
Mitigation Overlay Zone	MO
Institutional Campus	IC

**Section 2.030 LOCATION OF ZONES:**

The boundaries for the zones established in this ordinance are indicated on a map entitled "Zoning Map of Seaside, Oregon," which is hereby adopted by reference. The boundaries may be modified in accordance with zoning map amendments, which shall be adopted by reference.

**Section 2.040 BOUNDARIES OF ZONES:**

If a zone boundary as shown on the map divides a single lot of record between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies. If the zone boundary divides the lot into two equal areas, the entire lot shall be included in the least restrictive zone.

**Section 2.050 ZONING MAPS:**

A zoning map or zoning map amendment adopted by Section 2.030 of this ordinance (or by an amendment thereto), shall be prepared by authority of the City Planning Commission and adopted or modified by the City Council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained without change in the office of the City Planner as long as this ordinance remains in effect.

**Section 2.060 ZONING OF ANNEXED AREAS:**

Areas annexed to the city shall be included within the boundaries of zones established in this ordinance. The Planning Commission shall by resolution determine the appropriate zoning as indicated by the adopted comprehensive plan of the city.

**ARTICLE 3**  
**USE ZONES**

**Section 3.010 EFU - EXCLUSIVE FARM USE:**

**Section 3.011 Purpose.** The purpose and intent of the Exclusive Farm Use Zone is to provide areas for the continued practice of agriculture and permit the establishment of only those new uses which are compatible with agricultural activities.

Further, the Exclusive Farm Use Zone is intended to guarantee the preservation and maintenance of the areas so classified for farm use free from conflicting non-farm uses and influences. The zone is subject to change when the city demonstrates that such land is needed for development other than agriculture in accordance with provisions of the Statewide Planning Goals.

**Section 3.012 Outright Permitted Uses.** In an EFU Zone, the following uses and their accessory uses are permitted outright:

1. Farm uses as defined in ORS 215.203.
2. Public or private schools.
3. Churches.
4. The propagation or harvesting of a forest product.
5. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height.
6. The dwellings and other buildings customarily provided in conjunction with farm use if the following conditions are met:
  - A. The parcel upon which the dwelling is proposed is at least 38 acres in size; and
  - B. The parcel upon which the dwelling is proposed is currently employed for farm use as evidenced by current assessment at farm use value under ORS 308.370; and
  - C. The use of the land is for the purpose of obtaining a profit in money, and the day-to-day activities on the parcel upon which the dwelling is proposed are principally directed to the farm use of the land; and
  - D. One or more of the persons to reside in the proposed dwelling are actively engaged in management of the farm operation on the parcel, as evidenced by a signed affidavit to that effect. Notice and an opportunity for a hearing on dwellings and other buildings customarily provided in conjunction with farm use shall be provided in accordance with city's procedures for quasi-judicial land use actions.
7. A dwelling on real property used for farm use if the dwelling is:
  - A. Located on the same lot or parcel, as those terms are defined in ORS 92.010, as the dwelling of the farm operator; and
  - B. Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose

assistance in the management of the farm use is or will be required by the farm operator.

8. A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or buildings necessary for its operation.
9. Dish antennas subject to provisions in Section 4.028.

**Section 3.013 Conditional Uses Permitted.** In an EFU Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Commercial activities that are in conjunction with farm use.
2. Private parks, playgrounds, hunting and fishing preserves and campgrounds.
3. Parks, playgrounds, or community centers owned and operated by a governmental agency or a nonprofit community organization.
4. Golf courses.
5. Commercial utility facilities for the purpose of generating power for public use by sale.
6. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
7. Home occupations which meet the standards of Section 4.130. The conditional use permit shall be reviewed every 12 months following the date the permit was issued to assure that the permit continues to comply with the requirements of Section 4.130
8. A facility for the primary processing of forest products provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203. Such a facility may be approved for a one year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means 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. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
9. The boarding of horses for profit.
10. A site for the disposal of solid waste approved by the city, and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality, together with equipment, facilities, or buildings necessary for its operations.
11. Transmission towers over 200 feet in height.

12. Single family residential dwellings, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use upon a finding that each such proposed dwelling:
  - A. Is compatible with farm uses described in subsection (2) of ORS 216.203 and is consistent with the intent and purposes set forth in ORS 215.243; and
  - B. Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm uses; and
  - C. Does not materially alter the stability of the overall land use pattern of the area; and
  - D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
  - E. Final approval cannot be given without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308.370.

**Section 3.014 Partition of Land in EFU Zone.**

1. No partitions shall be allowed of a lot described in 3.012 (7) above.
2. All minor and major partitions shall be approved by the procedure specified in the subdivision ordinance. A partition of land in an EFU Zone shall only be approved if the Planning Commission finds the partition is consistent with the intent and purpose of ORS 215.243 and meets one of the following standards:
  - A. The partition is for the purpose of establishing a farm use as defined in ORS 215.203.
  - B. The partition is for the purpose of allowing a single family residence not provided in conjunction with farm use and the partition is found to meet the standards of 3.013, 12 (a) through (d).
  - C. The partition is for the purpose of allowing a permitted non-farm use listed in Section 3.012 or a non-farm conditional use listed in 3.013, except 3.013 (12).

**Section 3.015 Standards.** In an EFU Zone, the following standards shall apply:

1. Parcel Size: The creation of a lot or parcel shall be subject to the provisions of Section 3.014; however, for a commercial agriculture enterprise the minimum parcel size shall be 38 acres.
2. Front Yard: A front yard shall be at least 20 feet.
3. Side Yard: A side yard shall be at least 5 feet except on corner lots a side yard abutting the side street shall be at least 10 feet.
4. Rear Yard: A rear yard shall be at least 15 feet.
5. Height Restriction: Maximum height of structures shall not exceed 35 feet. Maximum height of agricultural buildings shall be 40 feet.
6. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 35 percent of the total area of the lot.

7. Off-Street Parking: As specified in Section 4.100.
8. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.020 R-1 RESIDENTIAL LOW DENSITY**

**Section 3.021 Purpose.** To provide for low density single family development with a maximum density of five dwelling units per net acre. These areas are characterized by suburban residential qualities and provide for other uses which are consistent with residential neighborhoods such as churches, schools, community uses, etc. No commercial or residential uses operated for commercial purposes should be in this zone.

**Section 3.022 Outright Uses Permitted.** In the R-1 Zone, the following uses and their accessory uses are permitted outright:

1. Single family dwelling.
2. Flower and vegetable gardens, agricultural crops, orchards and vineyards, horticultural collections, nursery stock; but excluding signs or structures for the purpose of sale of any product, commercial greenhouses, commercial farm buildings or the keeping of non-domestic animals and poultry.
3. Residential Homes.
4. Family Day-Care Provider.
5. Dish antennas subject to provisions in Section 4.028.
6. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.
7. Accessory Dwelling Unit (see general and specific provisions in Article 4).

**Section 3.023 Conditional Uses Permitted.** In the R-1 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Church and other religious structures.
2. Primary, elementary, junior or senior high school; or a higher education institution.
3. Community meeting buildings.
4. Cemetery.
5. Golf course, except commercial driving ranges or miniature golf course.
6. Public park, playground, or other similar publicly owned recreational use.
7. Private swimming pool when operated by a neighborhood group or similar organization.
8. Temporary real estate office in a subdivision.
9. Utility substation.
10. Medical clinics and hospitals.
11. Private sports complex.

12. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135. This section does not apply to land designated as a historic district or land adjacent to a historic landmark.
13. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
14. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

**Section 3.024 Prohibited Uses.** All uses not permitted outright or as conditional uses under Sections 3.022 and 3.023.

**Section 3.025 Standards.** In the R-1 Zone the following standards shall apply:

1. Lot Size: Lot area shall be a minimum of 10,000 square feet. Average lot width shall be at least 70 feet at the building line.
2. Density: The overall density on any parcel shall not exceed five dwelling units per net acre.
3. Front Yard: A front yard shall be 20 feet.
4. Side Yard: A side yard shall be at least five feet except on corner lots, a side yard abutting the side street shall be at least 10 feet.
5. Rear Yard: A rear yard shall be at least 15 feet, except accessory buildings may extend to within five feet of a rear property line.
6. Height Restriction: Maximum height of a structure shall not exceed 35 feet.
7. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 35 percent of the total area of the lot.
8. Off-Street Parking: As specified in Section 4.100.
9. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.030 R-2 RESIDENTIAL MEDIUM DENSITY**

**Section 3.031 Purpose.** To provide for moderately dense housing with a maximum density of 10 dwelling units per net acre - basically a single family zone with limited multiple family development.

**Section 3.032 Outright Uses Permitted.** In the R-2 Zone, the following uses and their accessory uses are permitted outright:

1. Single family dwelling.
2. Two family dwelling or duplex.
3. Flower and vegetable gardens, agricultural crops, orchards and vineyards, horticultural collections, nursery stock; but excluding any sign or structure for the purpose of the sale of any product, commercial green houses, commercial farm buildings, or the keeping of non-domestic animals and poultry.
4. Sign subject to provisions in the Seaside Sign Code, Ordinance No. 88-2.
5. Dish antennas subject to provisions in Section 4.028.

6. Family Care.
7. Residential Home Care.
8. Family Day Care Provider
9. Residential Home
10. Residential Facility
11. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.
12. Accessory Dwelling Unit (see general and specific provisions in Article 4).

**Section 3.033 Conditional Uses Permitted.** In the R-2 Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Church and other religious structures.
2. Primary, elementary, junior or senior high school; kindergarten, or day nursery; or a higher education institution.
3. Community meeting buildings.
4. Cemetery.
5. Golf course, except commercial driving ranges or miniature golf course.
6. Public park, playground, or other similar publicly owned recreational use.
7. Temporary real estate office in a subdivision.
8. Utility substation.
9. Radio or television transmitter or tower.
10. Government or municipal structure or use.
11. Manufactured Dwelling Park
12. Nursing homes and hospitals.
13. Professional offices when the lot adjoins a State Highway or major arterial and when the lot is contiguous to, or across the street from a commercial or industrial zone.
14. Private sports complex.
15. Manufactured Dwelling Subdivision.
16. Bed & Breakfast establishments subject to provisions in Sections 6.135 and 6.136.
17. Vacation Rental Dwellings subject to provisions in Section 6.137.
18. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135. This section does not apply to land designated as a historic district or land adjacent to a historic landmark.
19. Home Occupation subject to Sections 4.130 through 4.134.

20. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
21. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

**Section 3.034 Prohibited Uses.** All uses not permitted outright or as conditional uses under Section 3.032 and 3.033.

**Section 3.035 Standards.** In the R-2 Zone, the following standards apply:

1. Lot Size: Lot area shall be a minimum of 5,000 square feet, and shall not be less than 7,500 square feet for a duplex. Individual units of a duplex may be sold independently, in that case, the minimum lot area for each unit shall be 3750 square feet. Lot width shall have an average width of at least 50 feet. Where duplex units are sold independently, the lot width shall have an average width of at least 32.5 feet. Average lot depth shall be at least 100 feet. (ORD. No. 99-05)(ORD. No.2001-15)
2. Density: The overall density on any parcel shall not exceed 10 dwelling units per net acre.
3. Front Yard: A front yard shall be 20 feet.
4. Side Yard: A side yard shall be at least five feet except on corner lots, a side yard abutting the side street shall be at least 10 feet. Side yard requirements do not apply to the common property line separating duplexes developed in accordance with the zero lot line setback provisions in Section 5.070. (ORD. No. 99-05)
5. Rear Yard: A rear yard shall be at least 15 feet, except accessory buildings may extend to within five feet of a rear property line.
6. Height Restriction: Maximum height of a structure shall not exceed 35 feet.
7. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 40 percent of the total area of the lot.
8. Off-Street Parking: As specified in Section 4.100.
9. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.040 R-3 RESIDENTIAL HIGH DENSITY**

**Section 3.041 Purpose.** To provide for high density multi-family development with a maximum density of 20 dwelling units per net acre. These areas are predominantly single family, but multi-family units are the primary new development replacing many older units. Other uses, such as rooming and boarding houses, churches, schools, golf courses, parks, government buildings, utilities and condominiums are provided for in this zone. Under certain conditions, certain commercial uses which are for the convenience of neighbors may be allowed.

**Section 3.042 Outright Uses Permitted.** In the R-3 Zone, the following uses and their accessory uses are permitted outright.

1. Single family dwelling.
2. Two family dwelling.
3. Multifamily dwelling

4. Agriculture uses such as gardens, orchards, vineyards, but excluding signs or structures for the purpose of sale of any product, commercial greenhouses, or farm buildings, or the keeping of non-domestic animals and poultry.
5. Dish antennas subject to provisions in Section 4.028.
6. Residential Homes
7. Family Day Care Provider
8. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.
9. Accessory Dwelling Unit (see general and specific provisions in Article 4).

**Section 3.043 Conditional Uses Permitted.** In the R-3 Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Churches and other religious structures.
2. Primary, elementary, junior and senior high schools; or a higher education institution.
3. Kindergarten or day nursery.
4. Community meeting building.
5. Cemetery.
6. Golf course, except commercial driving ranges, or miniature golf courses.
7. Public park, playground, or other similar publicly owned recreational uses.
8. Temporary real estate office in a subdivision.
9. Utility substation.
10. Radio or television tower or transmitter.
11. Government or municipal structure or use.
12. Convenience establishments.
13. Boarding, lodging or rooming house.
14. Group care homes, homes for the aged, nursing homes, and hospitals.
15. Professional offices when the lot adjoins a state highway or major arterial, or is contiguous to, or across the street from a commercial industrial zone.
16. Private sports complex.
17. Manufactured Home Subdivision.
18. Bed & Breakfast establishments subject to provisions in Sections 6.135 and 6.136.
19. Vacation Rental Dwellings subject to provisions Section 6.137.
20. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135. This section does not apply to land designated as a historic district or land adjacent to a historic landmark.

21. Home occupations subject to Sections 4.130 through 4.134.
22. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
23. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

**Section 3.044 Prohibited Uses.** All uses not permitted outright or as conditional uses under Sections 3.042 and 3.043.

**Section 3.045 Standards.** In the R-3 Zone, the following standards shall apply:

1. Lot Size: Lot area shall be a minimum of 5,000 square feet. Attached dwelling units in a zero lot line setback development may have a minimum lot area of 3,000 square feet.
2. Density: The overall density on any parcel shall not exceed 20 dwelling units per net acre.
3. Front Yard: A front yard shall be at least 15 feet.
4. Side Yard: A side yard shall be at least five feet, except on corner lots a side yard abutting the side street shall be at least 10 feet. Also see exceptions in Section 5.070 for zero lot line setbacks.
5. Rear Yard: A rear yard shall be at least 15 feet, except accessory buildings may extend to within five feet of a rear property line.
6. Height Restriction: Maximum height of a structure shall be 45 feet.
7. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory building shall not exceed 55 percent of the total area of the lot.
8. Off-Street Parking: As specified by Section 4.100.
9. All uses shall comply with other applicable supplementary provisions in Article 4.

*(Updated per Ordinance No. 2003-06)*

### **Section 3.046 R-R RESORT RESIDENTIAL**

**Section 3.047 Purpose.** To provide space for the orderly expansion of tourist accommodations and related business, such as restaurants and gift shops. These areas are characterized by built-up single family units, but are now in a state of transition. Conversion to resort uses should be provided with a minimum of disruption of existing residential values.

**Section 3.048 Outright Uses Permitted.** In the R-R Zone, the following uses and their accessory uses are permitted:

1. Single family dwelling.
2. Two family dwelling.
3. Multi-family dwelling.
4. Motel, hotel, or tourist court.
5. Family Day Care Provider
6. Dish antennas subject to provisions in Section 4.028.

7. Residential Home
8. Residential Facility.
9. Maintenance, repair or minor modification to existing roads, sidewalks, bikepaths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.
10. Accessory Dwelling Unit (see general and specific provisions in Article 4).

**Section 3.049 Conditional Uses Permitted.** In the R-R Zone, the following Conditional Uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Church and other religious structures.
2. Condominiums and Time Share Units.
3. Community meeting building.
4. Golf course, except commercial driving ranges or miniature golf courses.
5. Public park, playground, or other similar publicly owned recreational use.
6. Utility substation.
7. Professional offices, when the lot adjoins a state highway or major arterial, or when the lot is contiguous to, or across the street from a commercial or industrial zone.
8. Gift shop, or other uses appropriate to a motel or hotel, but only when a part of a hotel or motel.
9. Aquariums.
10. Restaurant and cocktail lounge, when in conjunction with a motel.
11. Group care homes, homes for the aged, and nursing homes.
12. Vacation Rental Dwellings subject to provisions in Section 6.137.
13. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135.
14. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
15. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

**Section 3.050 Prohibited Uses.** All uses not permitted outright or as conditional uses, under Sections 3.048 and 3.049.

**Section 3.051 Standards.** In the R-R Zone, the following standards shall apply:

1. Lot Size: Lot area shall be a minimum of 5,000 square feet. The average width shall be at least 50 feet and the average depth shall be at least 100 feet.
2. Density: The overall density on any parcel shall not exceed 30 dwelling units per net acre, except that no maximum density shall apply for a motel, hotel or tourist court.
3. Front Yard: A front yard shall be at least 15 feet.

4. Side Yard: A side yard shall be at least five feet, except on corner lots a side yard abutting the side street shall be at least 10 feet. Side yards shall be increased to eight feet for structures three or more stories in height.
5. Rear Yard: A rear yard shall be at least 15 feet.
6. Height Restriction: Maximum height of a structure shall be 45 feet.
7. Off-Street Parking: As specified in Section 4.100.
8. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.052 R-C RESIDENTIAL/COMMERCIAL**

**Section 3.054 Outright Uses Permitted.** In the R-C Zone, the following uses and their accessory uses are permitted outright.

1. Single family dwelling.
2. Two family dwelling.
3. Retail businesses and services with business hours not to exceed 8:00 AM - 10:00 PM.
  - A. Drug stores
  - B. Variety stores
  - C. Barber shop and beauty shop
  - D. Clothes cleaning
  - E. Antique stores
  - F. Gift shop, flower shops, rock shops, hobby shops
  - G. Professional offices
  - H. Repair shops for TV and appliances
  - I. Similar uses as authorized by the Planning Commission
4. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.
5. Accessory Dwelling Unit (see general and specific provisions in Article 4).

**Section 3.055 Conditional Uses Permitted.** In the R-C Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

1. Church and other religious structures.
2. Wedding chapel.
3. Group care homes, homes for the aged, nursing homes and residential homes.
4. Primary, elementary, junior or senior high schools; kindergarten or day nursery; or a higher education institution.
5. Public park, playground, or other similar publicly owned recreational use.

6. Government or municipal structures or use.
7. Utility substation.
8. Bed and Breakfast establishments subject to provisions in Section 6.135 and 6.136.
9. Grocery stores
10. Restaurants
11. Vacation Rental Dwellings subject to provisions in Section 6.137.
12. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135. This section does not apply to land designated as a historic district or land adjacent to a historic landmark.
13. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
14. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

**Section 3.056 Prohibited Uses and Structures.** In the R-C Zone, the following uses and structures are prohibited:

1. Drive-in restaurants
2. Automobile service and sales

**Section 3.057 Standards.** In the R-C Zone, the following standards shall apply:

1. Lot Size: Lot area shall be a minimum of 5,000 square feet, and a maximum of 20,000 square feet.
2. Density: The overall density on any parcel shall not exceed 10 dwelling units per net acre.
3. Front Yard: A front yard shall be at least 15 feet.
4. Side Yard: A side yard shall be at least 5 feet, except on corner lots a side yard abutting the side street shall be at least 10 feet.
5. Rear Yard: A rear yard shall be at least 15 feet, except accessory buildings may extend to within five feet of a rear property line.
6. Height Restriction: Maximum height of a structure shall not exceed 35 feet
7. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 40 percent of the total area of the lot.
8. Screening: Any commercial use adjoining a residential use, must provide a site-obscuring fence along the side or rear property lines, adjoining parking lots and loading and service areas. The Planning Commission can grant waivers following a public hearing in which adjoining property owners are notified.

### **Section 3.060 C-1 COMMERCIAL NEIGHBORHOOD**

**Section 3.061 Purpose.** To provide for the location of small businesses and services adjoining residential areas of the city. Businesses are intended to fit into the residential character of the neighborhood and not create either architectural or traffic conflict.

**Section 3.062 Outright Uses Permitted.** In a C-1 Zone, the following uses and their accessory uses are permitted outright.

1. Existing residential uses without any increase in density. Expansion of existing residential uses shall conform to the standards of Section 3.045.
2. Retail businesses such as grocery, drug, variety stores, restaurants, barber and beauty shops, laundry and dry cleaning; and rental of non-motorized bikes, trikes, and boats.
3. Family Day Care Provider in an existing residential use as described in "1" above.
4. Residential Homes in an existing residential use as described in "1"above.
5. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

**Section 3.063 Conditional Uses Permitted.** In a C-1 Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

1. Residential uses in connection with a permitted use and when located within the same structure.
2. Conversion of an existing dwelling unit to permitted use.
3. Automobile service stations, except no service station shall be allowed west of the Necanicum River.
4. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
5. Similar Use subject to Section 6.250

**Section 3.064 Prohibited Uses and Structures.** In a C-1 Zone, the following uses and structures are prohibited:

1. Residential structures other than provided by Section 3.063 (1).
2. Drive-in type restaurants.

**Section 3.065 Standards.** In a C-1 Zone, the following standards shall apply:

1. Lot Size: No minimum requirement.
2. Density: No requirements.
3. Front Yard: A front yard shall be at least 15 feet.
4. Side Yard: None, except when abutting an "R" Zone and then the rear yard shall be at least 15 feet.
5. Rear Yard: None, except when abutting an "R" Zone and then the rear yard shall be at least 15 feet.
6. Height Restriction: Maximum height of a structure shall not exceed 35 feet.
7. Lot Coverage: No requirement.

8. Off-Street Parking: As specified in Section 4.100.
9. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.070 C-2 COMMERCIAL RESORT**

**Section 3.071 Purpose.** To provide for tourist oriented facilities and services. The resort character of these areas should be emphasized, and businesses and uses which contribute to the attractiveness for tourists are provided for. Sufficient and conveniently located parking, safe, easy pedestrian movement; concentration of colorful and attractive shops, and a favorable overall impression are important considerations in this zone.

**Section 3.072 Outright Uses Permitted.** In a C-2 Zone, the following uses and their accessory uses are permitted outright:

1. Retail stores and shops handling things such as clothing, gifts, food, drugs, antiques, furniture and appliances.
2. Amusement and entertainment enterprises, such as a bowling alley, billiard hall, skating rink or theater.
3. Eating and drinking establishments.
4. Hotel or motel
5. Recreation activities such as an auditorium, convention hall, gymnasium or swimming pool.
6. Service type store or business such as a barber shop or beauty shop, clothes cleaning, shoe repair, small appliance repair and telegraph office.
7. Offices such as banks, savings and loans, insurance and professional offices.
8. Public facilities such as a post office, telephone exchange, substation, fire or police station.
9. Rental of non-motorized bikes, trikes, and boats.
10. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

**Section 3.073 Conditional Uses Permitted.** In a C-2 Zone, the following conditional uses and their accessory uses are permitted, subject to the provisions of Article 6.

1. Amusement enterprises such as games of skill and science, thrill rides, penny arcade, and shooting gallery.
2. Condominiums, apartments, and time-share units.
3. Church or other religious structures.
4. Fraternal or service organization.
5. Single family dwelling unit when in conjunction with and subsidiary to an allowed use in the zone.
6. The rental of motorized bikes and boats.

7. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
8. Similar Use subject to Section 6.250

**Section 3.074 Prohibited Uses and Structures.** In a C-2 Zone, the following uses and structures are prohibited:

1. Residential uses other than provided by Section 3.073.
2. Automobile service stations.

**Section 3.075 Standards.** In a C-2 Zone, the following standards shall apply:

1. Lot Size: No minimum requirement.
2. Density: No requirements.
3. Front Yard: None
4. Side Yard: None, except when abutting an "R" Zone, and then the side yard shall be at least five feet.
5. Rear Yard: None, except when abutting an "R" Zone, and then the rear yard shall be at least 15 feet.
6. Height Restriction: Maximum height of a structure shall be 90-feet, for those lands which are within 300' of the Prom; 60-feet, for those lands between Columbia and a point 300' from the Prom; and 45-feet between Columbia and the Necanicum River. (ORDINANCE #2000-1)
7. Lot Coverage: No requirements.
8. Off-Street Parking: None required; except Section 3.072 (4) hotel, motel or tourist court; and Section 3.073 (2) condominiums and apartments; parking as specified in Section 4.100.
9. All uses shall comply with other applicable supplementary Provisions in Article 4.
10. Although setbacks are not required when properties do not adjoin "R" Zones, utility easements must be provided.

### **Section 3.080 C-3 COMMERCIAL, GENERAL**

**Section 3.081 Purpose.** To provide for more intensive commercial uses which do not require prime areas, such as in the central business district or resort areas. The area is characterized by wholesale and heavier commercial uses which normally occur in the fringe area of the central business district.

**Section 3.082 Outright Uses Permitted.** In a C-3 Zone, the following uses and their accessory uses are permitted outright:

1. Retail stores and shops handling food, drugs, clothes, gifts, antiques, new and used furniture and appliances.
2. Wholesale suppliers and warehouses.
3. Building supplies, contractor's offices and yards, and farm supplies.
4. Automotive uses such as repair shops and service stations, and new and used car dealers.

5. Processing such as a dairy, bottling plant, or fish.
6. Restaurants, including drive-through operations.
7. Service type store or business such as a barber or beauty shop, clothes cleaning, shoe repair, small appliance and engine repair, and telegraph offices.
8. Offices such as banks, savings and loans, insurance and professional offices.
9. Public facilities such as post office, telephone exchange, substation, fire or police station.
10. Hotel or motel.
11. The rental of non-motorized bikes, trikes, and boats.
12. Residential Facilities.
13. Theater
14. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

**Section 3.083 Conditional Uses Permitted.** In a C-3 Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

1. Drive-in restaurants.
2. Contractor's Yards
3. Mobile home and trailer sales lots and associated repair facilities.
4. Churches, religious structures and schools.
5. Residential uses in conjunction with a permitted use and when located within the same structure.
6. Time-share units, Condominiums and Apartments.
7. Recreational vehicle parks and campgrounds.
8. The rental of motorized bikes, and boats.
9. Indoor and outdoor amusement activities.
10. Kennels when in conjunction with a veterinary hospital.
11. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
12. Mini-storage
13. Similar Use subject to Section 6.250
14. Assisted Living Facilities

**Section 3.084 Prohibited Uses and Structures.** In a C-3 Zone the following uses and structures are prohibited.

1. Single family and two family residential uses.

**Section 3.085 Standards.** In a C-3 Zone, the following standards shall apply:

1. Lot Size: No minimum requirement.
2. Density: No requirements.
3. Front Yard: None.
4. Side Yard: None, except when abutting an "R" Zone and then the side yard shall be at least 5 feet.
5. Rear Yard: None, except when abutting an "R" Zone and then the rear yard shall be at least 15 feet.
6. Height Restriction: Maximum height of a structure shall be 45 feet.
7. Lot Coverage: No requirements.
8. Off-Street Parking: As specified in Section 4.100.
9. All uses shall comply with other applicable supplementary provisions in Article 4.
10. Although setbacks are not required when properties do not adjoin "R" Zones, utility easements must be provided.

### **Section 3.090 C-4 COMMERCIAL, CENTRAL**

**Section 3.091 Purpose.** To provide for a broad range of commercial and business activities that meet the day-to-day needs of the community's permanent residents. This is the central business district where the stores, shops, offices and government functions which serve the entire community locate.

**Section 3.092 Outright Uses Permitted.** In a C-4 Zone, the following uses and their accessory uses are permitted outright:

1. Retail stores and shops merchandising clothing, gifts, food, drugs, antiques, furniture, and appliances.
2. Eating and drinking establishments.
3. Service type store or business such as a barber or beauty shop, clothes cleaning, shoe repair, small appliance repair and telegraph office.
4. Offices such as banks, savings and loans, insurance and professional offices.
5. Public facilities such as post office, telephone exchange, substation, city hall, fire and police station.
6. The rental of non-motorized bikes, trikes, and boats.
7. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

**Section 3.093 Conditional Uses Permitted.** In a C-4 Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

1. Automobile service stations.
2. Condominiums and apartments.
3. Hotel or motel.
4. Church and other religious structures.
5. Fraternal or social organization.
6. Commercial laundries.
7. Kindergarten or day nursery.
8. The rental of motorized bikes, and boats.
9. Residential Facility
10. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
11. Similar Use subject to Section 6.250

**Section 3.094 Prohibited Uses and Structures.** In a C-4 Zone, the following uses and structures are prohibited:

1. Residential uses other than provided by Section 3.093.
2. Drive-in restaurants.
3. Drive-in theater.

**Section 3.095 Standards.** In a C-4 Zone, the following standards shall apply:

1. Lot Size: No minimum requirement.
2. Density: No requirements.
3. Front Yard: None
4. Side Yard: None, except when abutting an "R" Zone and then the side yard shall be at least 5 feet.
5. Rear Yard: None, except when abutting an "R" Zone and then the rear yard shall be at least 15 feet.
6. Height Restriction: Maximum height of a structure shall be 75 feet.
7. Lot Coverage: No requirements.
8. Off-Street Parking: As specified in Section 4.100 for all new buildings.
9. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.100 M-1 INDUSTRIAL**

**Section 3.101 Purpose.** To provide for limited industrial development without adversely affecting Seaside's resort character.

**Section 3.102 Outright Uses Permitted.** In the M-1 Zone, the following uses and their accessory uses are permitted outright:

1. Assembling, fabricating, storage or repair of such products as electrical appliances, heating and ventilating equipment, musical instruments, signs or toys.
2. Manufacturing, compounding, processing, packaging or storage of such products as cosmetics, drugs or foods and beverages.
3. Manufacturing, assembling, treating, storage or repair of articles made from previously prepared materials such as bone, cellophane, clay, cork, fabric, fur, glass, hair, leather, paper, plastics, precious or semi-precious stone or metal, shell, wire or wood.
4. Commercial or industrial laundry.
5. Distributing, wholesaling and warehousing.
6. Experimental firm, or testing laboratory.
7. Ice or cold storage plant.
8. Stone monument works.
9. Repair facilities, such as machine shop primarily for heavy repairs.
10. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

**Section 3.103 Conditional Uses Permitted:** In an M-1 Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6.

1. A non-residential use permitted outright or a conditional use permitted in a C-3 Zone.
2. A use permitted outright processing such products as fish, meat, and other food products.
3. Freight terminal.
4. Bulk petroleum storage plants.
5. Blacksmithing, electroplating, machine or welding shop.
6. Foundry casting light weight, non-ferrous metals.
7. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.

**Section 3.104 Prohibited Uses and Structures:** In an M-1 Zone the following uses and structures are prohibited:

1. All residential uses.
2. A use constituting a potential hazard or nuisance in terms of fire, explosive, pollution or excessive noise.

**Section 3.105 Standards:** In an M-1 Zone, the following standards shall apply:

1. Lot Size: No minimum requirements
2. Density: No requirements
3. Front, Side and Rear Yards: None, except as provided in "4" below.

4. Buffer Area: If a use in the zone abuts or faces a residential or commercial zone, then such use shall be set back at least 50 feet on the side abutting or facing the adjacent zone in order to provide a buffer area. Screening, landscaping, or other conditions necessary to preserve the character of the adjacent zone shall be provided and maintained.
5. Height Restriction: Maximum height of a structure shall be 45 feet.
6. Off-Street Parking: As specified in Section 4.100.
7. Open Use: A use not contained within an enclosed building, such as open storage, abutting or facing a residential or commercial zone, shall be screened with a sight-obscuring fence, not less than 6 feet in height.
8. All uses shall comply with other applicable supplementary provisions in Article 4.

### **Section 3.110 PD - PLANNED DEVELOPMENT**

**Section 3.111 Purpose.** It is the intent of the Planned Development Section of this ordinance to encourage appropriate and orderly development of tracts of land that are large enough to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivisions. In this manner, environmental amenities may be enhanced by promoting a harmonious variety of uses, the economy of shared service and facilities, compatibility of surrounding areas, and the creation of attractive, healthy, efficient, and stable environments for living, shopping or working.

Specifically, it is the purpose of this section to promote and encourage:

1. Comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development.
2. Compatible mixtures of housing type and design.
3. Compatible mixture of uses.
4. More attractive and usable open space.
5. Advances in technology, architectural design, and functional land use design.
6. Recognition of the problems associated with population density, distribution, and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objective.
7. Flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas. It is not the intention of this section to be a bypass of regular zoning provisions solely to allow increased densities nor is it a means of maximizing densities on parcels of land which have unbuildable or unusable areas.
8. Efficient use of sites characterized by special features of geography, topography, size or shape.

### **Section 3.112 General Standards and Requirements.**

1. Size:
  - A. Planned residential developments may be established in the SR, R-1, R-2, R-3, or R-R residential zones on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the

purposes and objectives of Sections 3.110 through 3.113. The site shall be at least one acre in size, unless the Planning Commission finds that property of less than one acre is suitable by virtue of its unique historical nature and character, topography, or other natural features, or by virtue of its qualifying as an isolated problem area.

- B. Combination residential-commercial developments may be established in residential zones on parcels of land which are suitable for and of a sufficient size to be planned and developed in a manner consistent with the purpose and objectives of Sections 3.110 through 3.113.
2. Ownership:
- A. The tract or tracts of land included in a proposed planned development must be in one ownership or control, or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase, or any governmental agency, or a redeveloper under contract with a government agency, shall be deemed the owner of such land for the purpose of this section.
  - B. The applicant may divide and transfer units of any approved development. The approved final plan shall be developed as approved, regardless of ownership of the development.
3. Professional Design:
- A. The applicant for all proposed planned developments shall certify that the talents of the following professionals will be utilized in the planning process for development: (1) an architect licensed by the State; (2) a landscape architect licensed by the State; and (3) a registered engineer or a land surveyor licensed by the State.
  - B. One of the professional consultants chosen by the applicant from the above group shall be designated to be responsible for conferring with the City Staff with respect to the concept and details of the plan.
  - C. The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the City Staff or the Commission.
4. General Information: The planning process for development shall include:
- A. Plot plan of land in area to be developed indicating location of adjacent streets and all private rights-of-way existing and proposed.
  - B. A boundary survey performed by a surveyor licensed in the State of Oregon.
  - C. Existing and proposed finish grades of the property with all drainage features.
  - D. Location of all proposed structures and associated uses with the, height, gross floor area and approximate location of all entrances of each structure.
  - E. Vehicular and pedestrian circulation features within the site and on adjacent streets and alleys.
  - F. The extent, location, arrangement and proposed improvements of all off-street parking and loading facilities.
  - G. The type, extent, location, arrangement and proposed improvements of all open space, landscaping, fences and walls.

- H. Architectural drawings and sketches demonstrating the planning and character of the proposed development.
  - I. Number of units proposed.
  - J. Contour lines at two-foot intervals.
5. Permitted Buildings and Uses:
- Buildings and uses may be permitted either individually or in combination provided the overall density of the Planned Development does not exceed the density of the parent zone as provided by Section 3.113 (4). Where commercial use(s) are provided, the use(s) are intended to be primarily service oriented for the use of the Planned Development and immediate surrounding area.
- A. Single family dwellings, including detached, attached, or semi-attached units, row houses, atrium or patio houses.
  - B. Duplexes.
  - C. Multiple-family dwellings.
  - D. Accessory buildings and uses.
  - E. Commercial uses where such use(s) can be shown to be principally supported (financially) by the uses in the Planned Development and surrounding neighborhoods.
  - F. Condominiums, and Time-Share Units.
  - G. Buildings or uses listed as permitted outright or conditionally in the parent zone on which the planned development is located.
  - H. Stables where compatible with the approved planned development. The types of animals and areas for animals may be specified and restricted in the planned development.
6. Definitions. The terms listed below, as used in the Planned Development text, have the following definitions:

**Private Common Open Space:** An area of land, together with any improvements, to be used, maintained and enjoyed by the common owners and/or occupants of a planned development.

**Public Open Space:** An area of land, together with any improvements, to be used and enjoyed by the common owners and/or occupants of a planned development as well as the general public.

**Section 3.113 Development Standards:** In addition to, or as a greater requirement to the regulations normally found in the district, the following guidelines and requirements shall apply to all developments for which a Planned Development Permit is required.

- 1. Open space.
  - A. In all developments, 20 percent of the total area of the site shall be devoted to open space as provided below:
    - 1. **Unimproved open space.** Unimproved open space area(s) can include, but are not limited to: Water resources, streams, drainageways, ponds, lakes, fish habitat or wetlands, historically or culturally significant sites,

ecologically or scientifically significant areas, land areas with slopes greater than 25%, geologic hazards, scenic views and landscapes, Federally listed threatened or endangered species habitat.

2. **Improved open space.** Improved open space area(s) can include, but are not limited to: Swimming pools; tennis, basketball, volleyball and other similar courts; playgrounds; baseball, soccer or other fields; picnic and barbecue facilities; community gardens; etc. Improved open space shall be consistent with the proposed development.
  - B. Open Space can include a combination of 3.113 (1)(A)(1) and (2).
  - C. The required open space shall be either public open space or private common open space.
2. **Underground Utilities.** All electric and telephone facilities, fire alarm conduits, street light wiring and other wiring, conduits and similar facilities shall be placed underground by the developer, unless waived by the Commission. The developer shall provide sufficient conduit to account for the maximum allowed development in the area.
3. **Density Guidelines.**
  - A. The density of a planned development shall not exceed the density of the parent zone(s) except as provided below:

The Planning Commission may approve a density of up to 1.2 times the base density where the proposal results in the following:

    1. The site design uses progressive concepts of building and site layout such as zero lot line setbacks and pedestrian oriented systems.
    2. The site design provides for open spaces through the efficient design and layout of the land.
    3. The project provides compatible mixtures of housing type and design.
    4. The project recognizes and resolves distribution and circulation problems that could occur with increased density.
    5. The development will be well integrated with its surroundings. Where the proposed use is not consistent in character with the surrounding uses, the location and design of the development will adequately reduce the impact to surrounding uses.
  - B. Areas of public or semi-public uses may be included in calculating allowable density.
  - C. When calculating density, the gross area of the residentially zoned areas of the site is used. Where a site is composed of multiple residential zones, the total density shall be the combined density from each area. The dwelling units for a multi-zoned site may be distributed without regard for zone lines.
4. **Street and Right-of way Standards**
  - A. Streets and right-of-way standards required by the city may be reduced where the following requirements are met:
    1. Emergency vehicle access concerns are resolved.

2. General vehicular circulation can be accommodated safely without creating congestion on new road(s) to be provided for the development.
  3. Traffic generated by the development can be accommodated safely and without congestion on existing local, collector or arterial streets.
- B. To achieve 4.A 1-3 above, the decision making body may impose the following conditions:
1. On street parking is prohibited.
  2. Vehicular flow is limited to one-way traffic.
5. Distribution of Facilities Without Reference to Lot Lines. Except for boundary lines of the development, individual buildings, accessory buildings, off-street parking and loading facilities, open space, and landscaping and screening may be located without reference to lot lines. Required parking spaces serving residential uses shall be located within 200 feet of the building containing the living units served by the parking.
6. Waiver of Reduction of Yard and Other Dimensional Requirements. Except as otherwise provided in Section 3.113, the minimum lot area, width and frontage, height and yard requirements otherwise applying in the district shall not dictate the strict guidelines for the planned unit development but shall serve to inform the designers of the importance of developing a project that will be in harmony with the character of the surrounding neighborhood. Reduction of the yard and other dimensional requirements are allowed where the following standards are met:
- A. Structures comply with applicable building and fire, life, safety requirements.
  - B. The structure(s) comply with the standards listed in 3.113 (4)(A)(1-8).
7. Dedication and Maintenance of Facilities. The Commission, may as a condition of approval for any development for which a Planned Development Permit is required, require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:
- A. Recreation Facilities. The Commission or Council, as the case may be, may require that suitable area for parks or playgrounds be set aside, improved, or permanently reserved for the owners, residents, employees or patrons of the development.
  - B. Outdoor Living Area. Whenever private outdoor living area is provided, the Commission shall require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon. This association shall adopt Articles of Incorporation and By-Laws and impose Declaration of Covenants and Restrictions on such outdoor living areas and/or common areas that are acceptable to the Commission. The association shall be formed and continued for the purpose of maintaining outdoor living area. If required, it may also undertake other functions. Property owners shall automatically be members of the association and shall be subject to assessments levied to maintain the outdoor living area.
  - C. Streets. The Commission may require that the right-of-way width streets necessary to the proper development of adjacent properties be dedicated to the City. This shall include providing necessary right-of-way for roads that may be needed for future development of adjacent parcels.

- D. Easements. Easements necessary to the orderly extension of public utilities or uses may be required as a condition of approval.
  - E. Recycling. A recycling center or program shall be established for the project area consistent with available recycling services in the community.
  - F. Maintenance of Outdoor Living Area. In the event that outdoor living area shall be public, maintenance shall be the responsibility of the City of Seaside or other entity as approved by the Planning Commission. The City of Seaside or other entity shall retain ownership of the public open space.
8. Buffering: The development shall be provided with sufficient buffering such that the proposed use will be compatible with existing adjacent uses. Where buffering is not proposed, the development shall be designed to include features that are found on adjacent uses.
  9. Natural Hazard Areas: Developments shall be consistent with Section 3.147 and 4.140 of the Seaside Zoning Ordinance (Ord. 83-10).

**3.114 Planned Development Procedures.** There shall be a three-stage review process for planned developments consisting of Pre-application (stage one), Preliminary Approval (stage two), and Final Approval (stage three).

1. **Pre-application (stage one)**

The owner, or his authorized agent, shall submit to the Planning Department the following information:

- A. A schematic drawing, drawn to a minimum scale of one inch equals 20 feet, (1" = 20'), or other suitable scale, showing the general relationship contemplated among all public and private uses and existing physical features.
- B. A written statement setting forth the source of water supply, method of sewage disposal, means of drainage, dwelling types, non-residential uses, lot layout, public and private access, height of structures, lighting, landscaped areas, population densities per net acre and per gross acre contemplated by the applicant. The developer and the City staff shall meet together and determine whether the requirements of Section 3.112 of this Ordinance have been met. If there is disagreement on this issue, the applicant by request, or the staff may take this pre-application information to the Commission for its determination of whether this site qualifies for the contemplated planned unit development.

The applicant must indicate to the staff or Commission the professional design team, as outlined in Section 3.112 (3) during stage one, and should also designate the professional coordinator.

The professional coordinator shall be responsible for presenting the developer's plan in all broad professional aspects to the Planning Department. If the staff and applicant reach a satisfactory agreement, the applicant may proceed to prepare the data for stage two preliminary approval.

2. **Preliminary Approval (stage two):**

- A. Applications for planned developments, preliminary approval, shall be made by the owner of all affected property or the authorized agent, and shall be filed on a form prescribed by the Planning Department and filed with said department.

Applications shall be by a fee prescribed in Section 10.050 and accompanied by the following information:

1. A minimum of ten copies of a preliminary development plan of the entire development showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and approximate dimensions of structures, utilization of structures, including activities and the number of living units; major landscaping features; relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets and open space. The development plan shall include maps and information on the surrounding area within 400 feet of the development. Also, a contour information and boundary survey or a certified boundary description by a registered engineer or licensed surveyor, shall also be submitted.

The elevations of all points used to determine contours shall be indicated on the preliminary plan and said points shall be given to true elevation above mean sea level as determined by the City Engineer. The base data used shall be clearly indicated and shall be compatible to City datum, of bench marks are not adjacent. Two foot contour intervals are required.

All elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact.

2. A tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre.
  3. A stage development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed pursuant to an approved time schedule.
  4. If it is proposed that the final development plan will be executed in stages, a schedule thereof will be required.
- B. Within 30 days of the filing the plans for Preliminary Approval, the Planning Director shall forward such development plan and the original application to the Engineering and Public Works Departments for review of public improvements, including streets, sewers and drainage.
- C. The Commission shall not act on a preliminary development plan until it has first received a report from the Planning, Engineering and Public Works Departments.
- D. An application for Planned Development Permit shall be considered by the Planning Commission. A public hearing, as specified in Section 10.060, shall be held on each such application. After the hearing, the Commission shall determine whether the proposal conforms to the permit criteria set forth in Section 3.115 and to the Planned Development Regulations in Section 3.110 through 3.113. They may grant preliminary approval, or deny the application and the accompanying preliminary development plan. The Commission may also require changes or impose conditions, with the preliminary approval, that are necessary to ensure conformity to the criteria and regulations. In so doing, the Commission may in its discretion authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development

in accordance with the preliminary development plan and stage development schedule.

- E. The Planning Commission, at a hearing where Preliminary Approval has been granted, may forego the requirement of Section 3.114(3) and grant Final Approval when the Planning Commission determines the following conditions exist:
1. Conditions of approval for the Preliminary Approval do not require submission of a revised plan for Planning Commission review.
  2. The Preliminary Approval, with any conditions that may be imposed, assure conformity to Sections 3.110 through Section 3.113 and Section 3.115.
  3. The proposed development does not require improvements that must be completed prior to final approval.
  4. The Plan includes the following: The location of water, sewer and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans. The plan shall be sufficiently detailed to fully indicate the ultimate operation and appearance of the development.
  5. The applicant has provided the following: Copies of legal documents required by the Commission for dedication of public facilities, or for the creation of a non-profit home associations.
  6. The Planned Development has not been submitted with another request, such as a subdivision or major partition, that requires a Final Review approval.

3. **Final Approval (stage three)**

- A. Within one year of concept approval or modified approval of a preliminary development plan, the applicant shall file with the Planning Department a final plan for the entire development, or when submission in stages has been authorized pursuant to Section 3.114(2), for the first unit of the development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan plus the following:
- The location of water, sewer and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required by the Commission for dedication of public facilities, or for the creation of a non-profit homes association, shall also be submitted.
- B. Within 30 days of the filing the development plan, the Planning Director shall forward such development plan and the original application to the Engineering and Public Works Departments for review of public improvements, including streets, sewers and drainage.
- C. The Commission shall not act on a development plan until it has first received a report from the Planning, Engineering and Public Works Departments.

- D. Upon receipt of the final development plan, the Planning Commission shall hold a public hearing to examine such plan(s) and determine whether it conforms to all applicable criteria and standards. The plan shall, in all substantial respects, conform to the plan that received preliminary approval. The Commission may require such changes in the proposed development or impose conditions of approval that are necessary to insure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and re-submit it as a final development plan within 60 days.
- E. For final approval, the Planning Commission shall review the project for compliance with Section 3.115.

**Section 3.115 Permit Criteria:** A Planned Development Permit may be granted by the Planning Commission only if it is found that the development conforms to all the following criteria as well as to the Planned Unit development Regulations in Sections 3.110 through 3.114.

1. That the location, design and size are such that the development can be well integrated with its surroundings. In the case of a departure in character from surrounding uses, the location and design will adequately reduce the impact of the development.
2. That the location, design, size and uses are such that traffic generated by the development, can be accommodated safely and without congestion on existing or planned arterial, collector or local streets. Commercial developments will not be served solely by local streets.
3. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or planned facilities and services.
4. That the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for living, shopping or working.

**Section 3.116 Mapping.** Whenever a Planned Development Permit has been granted, and so long as the permit is in effect, the boundary of the planned unit development shall be indicated on the zoning map of the City with a "PD" designation. The PD designation is not a zone designation, rather an indicator of where a Planned Development Permit has been approved.

**Section 3.117 Limitation on Resubmission.** Whenever an application for a Planned Development Permit has been denied, no application for the same plan or any portion thereof shall be filed by the same applicant within six months of the date of denial unless substantial modifications have been made.

**Section 3.118 Adherence to Approved Plan and Modification Thereof.**

1. The applicant shall agree in writing to be bound for himself and his successors in interest by the conditions prescribed for approval of a development. The approved final plan and stage development schedule, when staging has been approved, shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses. Minor changes in any approved preliminary or final development plan may be approved by the Planning Director, if such changes are consistent with the purposes and general character of the plan. All other modifications, including extension or revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

2. A performance bond or other similar document/device shall be required, in an amount to be determined by the Planning Commission, to insure that infrastructure related improvements are completed as approved and within the approved time limits. The amount of the bond or other device shall be 120% of the current projected improvement costs. The City Engineer shall advise the Planning Commission as to the current projected costs.

**Section 3.119 Violation of Conditions.** Failure to comply with the final development plan, any condition of approval prescribed under Section 3.114 (3) or 3.114(2)(E), or with the stated development schedule, shall constitute a violation of this Ordinance. In this event, the Commission may, after notice and hearing, revoke a Planned Development Permit.

### **Section 3.120 A-1 AQUATIC NATURAL**

**Section 3.121 Purpose.** To provide for aquatic areas which should be managed for resource protection, preservation and restoration. These areas may include areas of significant or extension salt marshes or tide flats which because of a combination of factors, such as biological productivity and habitat value, play a vital role in the functioning of the estuarine ecosystem. Natural aquatic areas may also include ecologically important water areas which lack significant alteration.

**Section 3.122 Uses and Activities Permitted with Review.** In an A-1 Zone, the following uses and their accessory uses, and activities are permitted if no major alterations of the estuary are necessary and the Planning Commission determines that the development plans comply with the provisions of Section 3.124 through 3.128.

1. Navigation Aids.
2. Research and Education observation.
3. Passive restoration measures.
4. Dredging or fill necessary for on-site maintenance of existing structures or facilities.
5. Riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archeological values, and public facilities.
6. Bridge crossings.
7. Undeveloped low-intensity water-dependent recreation.
8. Vegetative shoreline stabilization.

**Section 3.123 Conditional Uses and Activities Permitted.** In an A-1 Zone, the following uses and their accessory uses, and activities are permitted subject to the provisions of Article 6.

1. Boat ramps for public use where no dredging or fill for navigational access is needed.
2. Communication facilities.
3. Active restoration of fish and wildlife habitat or water quality and estuarine enhancement.
4. Pipelines, cables and utility crossings.
5. Temporary alterations.
6. Bridge crossing support structures.
7. Tidegate installation in existing functional dikes.

8. Incidental dredging, fill or piling installation in conjunction with uses 2 through 7 above.

#### **Section 3.124 Review Uses and Activities.**

**Section 3.125 Purpose.** The purpose of the review use process is to provide the Planning Commission with an opportunity to insure that the use conforms with policies and standards for natural aquatic areas, and that the development plans overcome any locational limitations resulting from an estuarine location. Unlike conditional uses, no public hearing is required.

**Section 3.126 Planning Commission Authority.** The Planning Commission shall have the authority to approve, approve with alterations, or disapprove Review Uses in accordance with Sections 3.127 and 3.128.

**Section 3.127 Review Uses.** shall be reviewed and administered using the same procedures as set forth in Sections 6.032 through 6.050, excepting Sections 6.034 and 6.042.

#### **Section 3.128 Standards for Aquatic Natural Zone.**

1. Evidence will be presented to the City through the state or federal permit processes that the structure(s) will not negatively affect currents, flushing characteristics, adjacent shorelines, marshes or fish habitat. Aesthetic factors shall be considered.
2. Applicants for in-water structures will present evidence why other means of addressing the problem are not feasible, such as rip rap on the shoreline, or floating structures.
3. All structures shall be of minor scale, and shall make no major alteration to the estuarine ecosystem.
4. Structures, parking lots, roads, fills, utilities and other activities except decks, walkways, and bridges shall be setback from the estuary boundary a distance of at least 25 feet.

#### **Section 3.130 A-2 AQUATIC CONSERVATION**

**Section 3.131 Purpose.** To provide for aquatic areas which can withstand limited amounts of adjacent development or alteration, consistent with the intent of the overall goals and policies of the Estuary Section of the Comprehensive Plan. Uses and activities within this zone must be non-consumptive, in that the area is to be managed for resource protection. Aquatic Conservation areas shall include water areas of the estuary and salt marshes and tidal flats of lesser biological significance than those in the A-1 Zone, and partially altered areas adjacent to existing development which do not qualify for inclusion in the A-2 Zone.

**Section 3.132 Uses and Activities Permitted With Review.** In an A-2 Zone, the following uses and their accessory uses and activities are permitted if no major alterations of the estuary are necessary and the Planning Commission determines that the development plans comply with the provisions of Section 3.135 through 3.139.

1. Navigation Aids.
2. Research and Education Observation.
3. Passive restoration measures.
4. Dredging or fill necessary for on-site maintenance of existing structures and facilities.
5. Riprap
6. Active restoration of fish and wildlife habitat or water quality and estuarine enhancement.

7. Communication facilities.
8. Pipelines, cables and utility crossings.
9. Bridge crossings and bridge crossing support structures.
10. Undeveloped low-intensity, water-dependent recreation.
11. Vegetative shoreline stabilization.
12. Tidegate installation in existing functional dikes.
13. Dredging, fill or piling installation in conjunction with uses listed above.
14. Fill in conjunction with the widening of US 101, including fill in conjunction with bridge approaches. (*Ordinance No. 2003-09*)

**Section 3.133 Conditional Uses and Activities Permitted.** In an A-2 Zone, the following uses and their accessory uses and activities are permitted subject to the provisions of Article 6. It must also be determined if these uses and activities meet the resource capability of the Aquatic Conservation area in which the uses or activities occur and if the uses and activities are consistent with the purpose of the Aquatic Conservation Zone, as stated above. The procedures of Section 6.180, Resource Capability Determination, will be used to make this determination.

1. High-intensity water-dependent recreation, including boat ramps, marinas and new dredging for boat ramps and marinas.
2. Active restoration for purposes other than those listed in 3.132(7).
3. Temporary alterations.
4. Storm water outfall.
5. Sanitary sewer outfall.
6. Minor navigational improvements.
7. Dredging, fill, or piling installation in conjunction with the uses listed above, excluding fill for minor navigational improvements.

**Section 3.134 Height of Buildings.** Maximum height of a building shall be 20 feet above water level at Mean Higher High Water.

**Section 3.135 Review Uses and Activities**

**Section 3.136 Purpose.** The purpose of the review use process is to provide the Planning Commission with an opportunity to insure that the use conforms with the policies and standards for conservation aquatic areas, and that the development plans overcome any locational limitations resulting from an estuarine location. Unlike conditional uses, no public hearing is required.

**Section 3.137 Planning Commission Authority.** The Planning Commission shall have the authority to approve, approve with alterations, or disapprove Review Uses in accordance with Sections 3.138 and 3.139.

**Section 3.138 Review Uses.** Review Uses shall be reviewed and administered using the same procedures as set forth in Sections 6.032 through 6.050, excepting Section 6.034 and 6.042.

**Section 3.139 Standards for Aquatic Conservation.**

1. Evidence will be presented to the City through the state or federal permit processes that the structure(s) will not negatively affect currents, flushing characteristics, adjacent shoreline, marshes, or fish habitat. Aesthetic factors shall be considered.
2. Applicants for in-water structures will present evidence why other means of addressing the problem are not feasible; such as rip rap on the shoreline, or floating structures.
3. All structures shall be of minor scale, and shall make no major alteration to the estuarine ecosystem.
4. Structures, parking lots, roads, fills, utilities or other uses or activities except decks, walkways and bridges (in areas without riparian vegetation) shall be setback from the estuary boundary a distance of at least 15 feet.
5. Where dredging is proposed, the applicant shall develop a dredged material disposal plan for expected life of the project in accordance with the Standards of Section 6.1535.

**Section 3.140 A-3 COASTAL LAKE & FRESHWATER WETLANDS ZONE:**

**Section 3.141 Purpose.** The purpose of the Coastal Lake and Freshwater Wetlands Zone is to assure conservation of important shoreland and wetland biological habitats and conserve examples of different natural ecosystem types in the Seaside area to assure a diversity of species and ecological relations.

Within the Urban Growth Boundary, occasional selective harvesting of timber is not considered to be a primary use and the use will be subjected to rigorous requirements should a permit be applied for and granted. Outside the Urban Growth Boundary, harvesting of timber shall be subject only to the requirements of the Forest Practices Act and Oregon Department of Forestry Administrative Rules.

**Section 3.142 Zone Boundaries:** The A-3 Zone shall be designated on the City of Seaside's Comprehensive Plan/Zone Map, and shall conform to the 1" to 400' map entitled "Major Freshwater Wetlands" on file at the City of Seaside and hereby adopted by reference.

**Section 3.143 Uses and Activities Permitted with Standards:** The following uses are permitted in the Coastal Lake and Freshwater Wetlands Zone subject to the provisions of Section 3.145 Development Standards:

1. Low intensity recreation
2. Passive restoration
3. Vegetative shoreline stabilization
4. Individual dock limited to 500 square feet for recreational or fishing use and necessary piling.
5. Submerged cable, sewerline, waterline or other pipeline.
6. Maintenance and repair of existing structures.
7. Developed hiking or bicycle trail which requires fill (gravel, paving) only in non-aquatic areas.
8. Pasturing and grazing.
9. The widening of US 101 and new alignments of US 101. (*Ordinance No. 2003-09*)

10. Fill in conjunction with bridges and bridge approaches along US 101, the widening of US 101, and new alignments of US 101. (*Ordinance No. 2003-09*)

**Section 3.144 Conditional Uses and Activities Permitted:** The following uses and activities are allowed as conditional uses when authorized in accordance with Article 6, Conditional Uses. The uses and activities are also subject to the provisions of Section 3.145, Development Standards:

1. Active restoration
2. Structural shoreline stabilization limited to rip rap
3. Boat launch
4. Bridges or other piling supported structures other than docks
5. Within the Urban Growth Boundary, selective harvesting of timber shall be according to a timber removal plan approved by the Oregon Department of Fish and Wildlife and submitted with the conditional use permit, subject to Conditional Use Standard 6.142.

### **Section 3.145 Development Standards**

1. All uses shall satisfy applicable aquatic and shoreland standards in Article 4.
2. Uses that are not water dependent or water related shall be set back to the extent of riparian vegetation identified in the Comprehensive Plan. Riparian vegetation shall be protected in accordance with Section 3.139.

### **Section 3.146 Freshwater Wetlands Zone Identification**

The location of the Freshwater Wetlands/Uplands Boundary line is approximate inasmuch as it is mapped at a scale of 1" to 400'. At such time that a development is proposed in the vicinity of the wetlands area, the City may require a site investigation to determine the exact location of the Boundary. The site investigation shall be performed by a qualified expert, such as a biologist from the U.S. Army Corps of Engineers, Oregon Division of State Lands, or the Oregon Department of Fish and Wildlife. Nothing in this provision shall allow for the redefinition or major alteration of the wetlands boundary.

### **Section 3.147 FLOOD HAZARD ZONE**

See Ordinance No. 79-21 as amended by Ordinance No. 90-12

An Ordinance Providing for the Establishment of Flood Damage Prevention Regulations within the City of Seaside, Oregon.

### **Section 3.150 ADI-ACTIVE BEACH AND DUNE/INTERDUNE ZONE, CONDITIONALLY STABLE AND STABLE DUNE AREA**

**Section 3.151 Purpose.** The intent of this zone is to regulate actions on beaches and in active dune and interdune, conditionally stable and stable dune areas in order to protect the fragile nature of the landscape.

### **Section 3.152 General Provisions.**

1. Uses Allowed: Those uses allowed in the basic zoning district within which the property is located will be allowed in the ADI Zone if the use will not violate standards referred to in the applicable basic zoning ordinance provisions. However, no use involving the placement or construction of a building will be allowed unless the building is a public access facility, such as a restroom.

In addition, mining/mineral extraction will not be used.

2. Planning Commission Review: No building permit will be issued or review of conditional use approved for use in an ADI Zone which involves the construction of a new structure or expansion of an existing structure unless:
  - A. The development plans have been reviewed and approved by the Planning Commission in accordance with Article 6.
  - B. The construction would not violate conditions previously imposed by the Planning Commission and would include minor improvements such as utility lines and fences -- but no new buildings.
3. Zone Boundaries: The boundaries of the ADI Zone shall include all beaches and the dune area west of the Prom and north of 19th Avenue (see comprehensive plan dune map). The boundaries shall also include conditionally stable and stable dune areas as mapped on the Department of Transportation aerials on file at City Hall and hereby incorporated by reference.
4. Warning and Disclaimer of Liability: The degree of protection from erosion or accretion required by this ordinance is considered reasonable for regulatory purposes. This ordinance does not imply that property outside the ADI Zone will be free from erosion or accretion. This ordinance shall not create a liability on the part of the City of Seaside or by any officer, employee, or official thereof for any damages due to erosion or accretion that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **Section 3.153 Site Specific Reports and Wind Erosion Prevention Plan.**

1. Unless the Planning Commission determines that adequate site specific reports have already been undertaken for the entire portion of the site proposed for development, the owner or developer will have new site specific reports for the site prepared by a qualified person. These reports shall include: The history of erosion or other hazards in the vicinity of the site, a map of areas in the vicinity of the site with recent evidence of erosion, a presentation of potential adverse effects of the development, recommendations on where structures should be located, suggestions on the type of protection required for the proposed use and nearby property, and other material required by the Planning Commission.
2. If the development involves removal of vegetation in any location or combination of locations larger than 100 square feet which have sandy soils, a satisfactory wind erosion prevention plan will be submitted by the owner or developer which provides for temporary and permanent sand stabilization and maintenance of new and existing vegetation. This plan can be a simple report indicating what types of vegetation will be planted, approximately when planting will occur, how vegetation will be preserved and other relevant techniques being used to prevent wind erosion.
4. The proposed use will be permitted only if:
  - A. The Planning Commission has determined that a satisfactory wind and erosion prevention plan will be used.
  - B. The Planning Commission has determined that the use will comply with provisions in Section 3.152.
  - C. The Planning Commission has determined that facilities associated with the use:

1. Are of minimal value or are adequately protected from any geologic hazards, ocean undercutting, storm waves, ocean flooding or wind erosion;
  2. Are designed to minimize any adverse impacts to the site or adjacent areas;
  3. Will not modify current or wave patterns in a manner that tends to beach erosion;
  4. Satisfies applicable requirements of the Oregon Beach Law; and
- D. The use complies with any conditions imposed by the Planning Commission, such as:
1. Prescribing the extent of vegetation removal;
  2. Prescribing the time, amounts and types of materials and methods to be used in restoration of dune vegetation;
  3. Prescribing setbacks greater than required in the underlying basic zone;
  4. Prescribing the location and design of proposed uses;
  5. Significant lowering of interdune lake water levels.

This requirement does not apply to single family dwellings if findings against this requirement are provided in the comprehensive plan or at the time of subdivision approval.

All conditions imposed by the Planning Commission will be consistent with the public interest and the intent of the zone.

4. Will not result in the draw-down of the groundwater supply in a manner that would lead to:
  - A. The loss of stabilizing vegetation;
  - B. The loss of water quality;
  - C. Salt water intrusion into the water supply; or
  - D. Significant lowering of interdune lake water levels.

This requirement does not apply to single family dwellings if findings against this requirement are provided in the comprehensive plan or at the time of subdivision approval.

### **Section 3.154 Additional ADI Zone Standards**

1. If any action not approved in conjunction with a use allowed under the provision of Section 3.152 involves removal of vegetation on any location or combination of locations larger than 100 square feet which has sandy soils, a satisfactory wind erosion prevention plan will be submitted by the owner or developer which provides for temporary and permanent sand stabilization and maintenance of new and existing vegetation. Removal of the vegetation will be allowed only if the Planning Commission, after the City has consulted with the Clatsop County Soil and Water Conservation District, determines that the wind erosion prevention plan is satisfactory.
2. Removal of vegetation in areas with sandy soils shall be kept to a minimum required for building placement or other valid purposes. Removal of vegetation should not occur more than 30 days prior to grading, construction or landscaping. Permanent re-

vegetation shall be started on the site as soon as practical and should return the site to its pre-construction level of stability or further increase the area's stability.

3. Sand removal shall be limited to that necessary for construction of permitted structures on the site or for eliminating hazards. Adequate consideration will be given to removing sand from the least sensitive locations. Disturbed areas shall be properly re-vegetated unless building is done thereon.
4. Vehicular and recurring pedestrian and equestrian traffic will be restricted to hard-surfaced streets or trails. Hiking, equestrian and nature trails shall be comprised of hard surface (plank, gravel, bound with clay, asphalt, or other material of like character) and must be approved by the Planning Commission.
5. However, sand removal and/or grading of the foredune necessary to alleviate hazards of sand build-up will be allowed in accordance with Section 3.156
6. Grazing of livestock is prohibited.

### **Section 3.155 Additional Provisions.**

1. The Planning Commission may charge the owner or developer a reasonable fee for the cost of reviewing site specific reports, wind erosion prevention plans, and the methods actually used to avoid hazards associated with active dune and interdune areas.
2. The Planning Commission may require the owner or developer to post a performance bond to assure that adverse effects which may occur as a result of a use or action reviewed by the Planning Commission.
3. If a development involves removal of vegetation in any location or combination of locations larger than 2,000 feet in areas underlain by 45S soil, or locations larger than 10,000 square feet in areas underlain by 36B, 58A, or 49C soils, a satisfactory wind erosion prevention plan will be submitted by the owner or developer which provides for temporary and permanent sand stabilization and maintenance of new and existing vegetation. Removal of the vegetation will be allowed only if the Planning Commission or Building Official determines that the wind erosion plan is satisfactory.
4. Removal of vegetation in sandy soils shall be kept to the minimum required for building placement or other valid purposes. Removal of vegetation should not occur more than thirty (30) days prior to grading, construction or landscaping. Permanent re-vegetation shall be started on site as soon as practical. Re-vegetation should return the site to its preconstruction level of stability or further increase the area's stability.
5. No use shall result in the draw-down of the ground water supply in a manner that would lead to (1) the loss of stabilizing vegetation; (2) the loss of water quality; (3) salt water intrusion into the water supply, or (4) significant lowering of interdune lake water levels.

This requirement does not apply to single family dwellings if findings against this requirement are provided in the Comprehensive Plan or at the time of subdivision approval.

6. The Planning Commission or Building Official may charge the owner or developer a reasonable fee for the cost of reviewing wind erosion prevention plans and the

methods actually used to avoid hazards associated with stable dune and interdune areas.

### **Section 3.156 Standards for Foredune Grading.**

Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development and is within an acknowledged urban growth boundary, and only as part of an overall plan for maintaining foredune grading. A foredune grading plan shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed, including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion) and effects of beachfront protective structures and jetties. The plan shall:

1. Cover an entire beach foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion, or accretion as a result of dune grading;
2. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is 4 feet above the 100 year flood elevation;
3. Identify and set priorities for low and narrow dune areas which need to be built up;
4. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures, including the timing of these activities; and
5. Prohibit removal of sand from the beach-foredune system.

The foredune grading plan must be adopted as an amendment to the comprehensive plan before grading can begin.

### **Section 3.160 AIRPORT DEVELOPMENT ZONE - AD**

**Section 3.161 Purpose.** This district provides lands for airport facilities. Potential developments will be reviewed to assure that they will not interfere with the operations of the airport.

### **Section 3.162 Permitted Uses.**

1. Airport support structures: hangars, weather stations, fuel terminals, storage buildings, etc.
2. Restaurant and service-type commercial activities.
3. Any business, service, processing, storage or display essential or incidental to any permitted use in this zone, and conducted entirely within an enclosed building.
4. Similar uses may be permitted when the Planning Commission determines that they meet the intent and standards of this Zone.
5. Manufacturing, assembling, warehousing, storage and processing of goods and products.
6. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

### **Section 3.163 Conditional Uses**

1. Airport runway extensions.
2. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.

### **Section 3.164 Use Requirements:**

1. Plan review and approval. No building permit or other permit for construction or alteration of any building structure or use in the AD Zone shall be issued until plans have been reviewed and approved by the Planning Commission in order to evaluate the conformity with the performance standards of this zone and the compatibility of vehicular access, signs, lighting, building placement and designs, landscaping, adjoining uses and location of water and sewage facilities.
2. Standards.
  - A. Air quality: The air quality standards set by the Department of Environmental Quality shall be the guiding standards in this zone, except that open burning is prohibited in any case.
  - B. Noise: As may be permitted under all applicable laws and regulations.
  - C. Storage: Materials shall be enclosed within a structure or concealed behind a sight obscuring fence or screening when adjoining a residential use.
  - D. Fencing: will be allowed inside a boundary planting screen and where it is necessary to protect property of the use concerned or to protect the public from a dangerous condition. Proposed fence locations and design shall be subject to Planning Commission Review.
  - E. Buffer: Where the AD Zone adjoins a residential zone, there shall be a buffer area of a depth adequate to provide for a dense evergreen landscape buffer which attains a mature height of 8 - 10 feet, or such other screening measures as may be prescribed by the Planning Commission in the event differences in elevation or other circumstances should defeat the purpose of this requirement. In no case shall the buffer area have less than the required 50-foot setback of this zone.
  - F. Vibration: No vibration other than that caused by highway vehicles, trains and aircraft shall be permitted which is discernible without instruments at the property line of the use concerned.
  - G. Airport Interference: No use shall create electrical or lighting interference with the operations of the airport.
  - H. Heat and Glare: Except for exterior lighting, operation producing heat or glare shall be constructed entirely within an enclosed building.
3. Setback Requirements:
  - A. The front, side and rear yard setbacks shall be 10 feet, except when abutting or across the street from a residential zone it shall be 50 feet.
4. Building Heights: The maximum building height shall conform to the Airport Development Standards.

### **Section 3.165 Off-Street Parking Requirements.**

Off-street parking shall be subject to Planning Commission approval.

### **Section 3.166 AIRPORT SAFETY OVERLAY ZONE**

**Section 3.167 Purpose.** In order to carry out the provisions of this overlay zone there are hereby created and established certain zones which include all of the land lying beneath the Airport Imaginary Surfaces as they apply to the Seaside Airport in Clatsop County. Such zones are shown on the current Airport Approach and Clear Zone Maps prepared by the Oregon Aeronautics Division October 1981.

Further, this overlay zone is intended to prevent the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the City of Seaside and Clatsop County.

**Section 3.168 Compliance.** In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of (this/these) overlay zone(s). In the event of any conflict between any provisions of (this/these) overlay zone(s) and the primary zoning districts, the more restrictive provision shall apply.

### **Section 3.169 Special Definitions:**

**Airport Approach Safety Zone:** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of: 1,250 feet for Utility Runway having only visual approaches; and 1,500 feet for a runway other than a Utility Runway having only visual approaches. The Airport Approach Safety Zone extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward (20:1) for all utility and visual runways.

**Airport Hazard:** Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

**Airport Imaginary Surfaces:** Those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

**Clear Zone:** Extends from the primary surface to a point where the approach surface is 50 feet above the runway end elevation.

**Conical Surface:** Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the Primary Surface of each visual and utility runway at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.

**Horizontal Surface:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and connecting the adjacent arcs by lines tangent to those arcs.

**Ldn:** Loudness day and night. A re-occurring average noise level.

**Noise Sensitive Areas:** Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 Ldn.

**Place of Public Assembly:** Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

**Primary Surface:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the Primary Surface is 250 feet for Utility Runways having only visual approaches and 500 feet for other than utility runways.

**Transitional Zones:** Extend seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).

**Utility Runway:** A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

### **Section 3.170 Permitted Uses Within the Airport Approach Safety Zone.**

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

### **Section 3.171 Conditional Uses Within the Airport Approach Safety Zone:**

1. A structure or building accessory to a permitted use.
2. Single family dwellings, mobile homes, duplexes and multi-family dwellings when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Clatsop County a Hold Harmless Agreement and Aviation and Hazard Easement and submits them to the airport sponsor and the City of Seaside Planning Department.
3. Commercial and industrial uses when authorized in the primary zoning district, provided the use does not result in the following:
  - A. Creating electrical interference with navigational signals or radio communication between the airport and aircraft.
  - B. Making it difficult for pilots to distinguish between airport lights or others.
  - C. Impairing visibility.
  - D. Creating bird strike hazards.

- E. Endangering or interfering with landing, take-off or maneuvering of aircraft intending to use the airport.
- F. Attracting large number of people.

5. Buildings and uses of a public works, public service or a public utility nature.

**Section 3.172 Procedures.** An applicant seeking a conditional use under Section 3.165 above shall follow procedures set forth in the conditional use section of the city zoning ordinance. Information accompanying the application shall also include the following:

- 1. Property boundary lines as they relate to the Airport Imaginary Surfaces;
- 2. Location and height of all existing and proposed buildings, structures, utility lines and roads; and a
- 3. Statement from the Oregon Aeronautics Division indicating that the proposed use will not interfere with operation of the landing facility.

**Section 3.173 Limitations**

- 1. To meet the standards and reporting requirements established in FAA Regulations, Part 77, no structure shall penetrate into the Airport Imaginary Surfaces as defined above under Section 3.163.
- 2. No place of public assembly shall be permitted in the Airport Approach Safety Zone.
- 3. No structure or building shall be allowed within the Clear Zone.
- 4. Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided however that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
- 5. No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.
- 6. In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be 55Ldn and above, prior to issuance of a building permit for construction of noise sensitive land use (real property normally used for sleeping or as schools, churches, hospitals, or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 Ldn. The planning and building departments will review building permits for noise sensitive developments.

**Section 3.180 OPR ZONE - OPEN SPACE, PARKS AND RECREATION**

**Section 3.181 Purpose.** To provide for the conservation of open space, and the protection and development of areas suited for outdoor recreation.

**Section 3.182 Outright Uses Permitted.** In an OPR Zone, the following uses and their accessory uses are permitted outright:

- 1. Farm or forest use.
- 2. Golf course, except a commercial driving range or miniature golf course.

3. Private beach access.
4. Hiking and nature trails.
5. Wildlife refuge.
6. Historic and scenic areas and artifacts.
7. Archaeological areas.
8. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.

**Section 3.183 Conditional Uses Permitted.** In an OPR Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

1. Public park, playground or other similar publicly owned recreational use.
2. Cemetery.
3. Public beach access.
4. Campground.
5. Municipal water or sewage treatment plants.
6. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.

**Section 3.184 Standards.** In an OPR Zone, the following standards shall apply:

1. Lot Size: There shall be no minimum lot size except as required for sanitation, setbacks, parking and other standards of this ordinance.
2. Front Yard: A front yard shall be at least 20 feet.
3. Side Yard: A side yard shall be at least 5 feet except on corner lots a side yard abutting the side street shall be at least 10 feet.
4. Rear Yard: A rear yard shall be at least 15 feet.
5. Height Restrictions: Maximum height of residential structure shall be 35 feet. Maximum height of agricultural building shall be 40 feet.
6. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 35 percent of the total area of the lot.
7. Off-Street Parking: As specified by Section 4.100.
8. All uses shall comply with other applicable supplementary provisions in Article 4.
9. Archaeological Areas: The Building Official shall review building permits, excavation permits or other land use actions that may affect known archaeological sites. If it is determined that a proposed building permit, excavation permit or other land use action may affect the integrity of an archaeological site, the Building Official shall consult with the State Historic Preservation Office on appropriate measures to preserve or protect the site and its contents. No permit shall be issued until either the State Historic Preservation Office determines that the proposed activity will not adversely affect the

archaeological site, or the State Historic Preservation Office has developed a program for the preservation or excavation of the site.

Indian cairns, graves or other significant archaeological resources uncovered during construction or excavation shall be preserved intact until a plan for their excavation or re-interment has been developed by the State Historic Preservation Office.

### **Section 3.190 SR - SUBURBAN RESIDENTIAL**

**Section 3.191 Purpose.** To allow existing development patterns to continue until municipal sewer facilities are provided. The raising of livestock will be allowed. Density shall not exceed four dwelling units per acre.

**Section 3.192 Outright Uses Permitted.** In a SR Zone, the following uses and their accessory uses are permitted outright:

1. Single family dwelling.
2. Home occupations.
3. Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stock-piling or storage of materials shall be allowed.
4. Dish antennas subject to provisions in Section 4.028.
5. Family day-care provider.
6. Residential home.
7. Maintenance, repair or minor modification to existing roads, sidewalks, bike paths and public utilities and services; New sidewalks and bike paths. Where new right-of way will be required that exceeds 25 percent of the existing right-of-way for the project area, the request shall be reviewed as a conditional use. These activities do not authorize the condemnation of property without due process.
8. Accessory Dwelling Unit (see general and specific provisions in Article 4).

**Section 3.193 Review Uses and Activities in an SR Zone.** The following uses and accessory uses after the Planning Commission determines that the proposed use or activity complies with the procedures set forth in Section 6.032 through Section 6.050, excluding Section 6.033 and 6.042.

1. Agriculture uses or any other enterprises customarily carried on in the field of general agriculture.
2. Stands for the display and sale of only those products raised upon the same premises provided it does not exceed an area of 200 square feet. Four off-street parking spaces shall be provided in accordance with Section 4.100.

**Section 3.194 Conditional Uses Permitted.** In an SR Zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6.

1. Church and other religious structures.
2. Primary, elementary, junior and senior high schools, or a higher education institution.
3. Community meeting building.

4. Cemetery.
5. Golf courses, except commercial driving ranges or miniature golf course.
6. Public park, playground or other similar publicly owned recreational use.
7. Utility substation.
8. Dog kennels.
9. Homes for the aged, nursing homes and hospitals.
10. Radio towers and transmitters.
11. Riding academies.
12. Day nurseries.
13. Manufactured home on an individual lot when placed upon a permanent foundation and subject to Section 4.135. This section does not apply to land designated as a historic district or land adjacent to a historic landmark.
14. Major modification of existing roads and public facilities and services; New roads that are not part of a partition or subdivision. These activities do not authorize the condemnation of property without due process.
15. Public facilities such as Fire Stations, Police Stations, or Ambulance Substations. (ORD. No. 99-11)

**Section 3.195 Prohibited Uses.** All uses not permitted outright or as conditional uses under Section 3.018 and 3.018 (a).

**Section 3.196 Standards.** In a SR Zone, the following standards shall apply:

1. Lot Size: Lot area shall be a minimum of 10,000 square feet.
2. Front Yard: A front yard shall be at least 20 feet.
3. Side Yard: A side yard shall be at least 5 feet except on corner lots a side yard abutting the street shall be at least 10 feet.
4. Rear Yard: A rear yard shall be at least 15 feet.
5. Height Restriction: Maximum height of a residential structure shall be 35 feet. Maximum height of an agricultural building shall be 40 feet.
6. Lot Coverage: Maximum area that may be covered by a permitted structure and accessory buildings shall not exceed 35 percent of the total area of the lot.
7. Off-Street Parking: As specified in Section 4.100.
8. All uses shall comply with applicable supplementary provisions in Article 4.
9. Land divisions that would create parcels less than five acres in size shall be permitted only if municipal sewer and water service are available. All land divisions that would create parcels over 5 acres in size, regardless of the availability of municipal water and sewer, shall be reviewed to insure that the proposed parcel layout (i.e., relationship to roads, easements and utilities) and building placement is such that the parcel can be re-divided at urban densities.

### **Section 3.200 MITIGATION SITE PROTECTION OVERLAY ZONE:**

**Section 3.201. Purpose.** To protect mitigation sites identified in the comprehensive plan from incompatible and pre-emptive development, and to provide for uses and activities necessary to undertake estuarine mitigation, restoration, creation or enhancement actions in identified mitigation sites.

Nothing in this section is intended to preclude the use of sites located outside of the Mitigation Site Protection Overlay Zone for estuarine mitigation, restoration, creation or enhancement, provided that the use of the site for estuarine mitigation, restoration, creation or enhancement has been authorized by the Division of State Lands through the issuance of a State Fill and Removal Permit.

#### **Section 3.202. Outright Uses:**

1. Estuarine mitigation, restoration, creation, or enhancement.

#### **Section 3.203 Conditional Uses:**

1. Uses allowed in the underlying zone that do not preempt the use of the site for estuarine mitigation, restoration, creation or enhancement, subject to the use standards of the underlying zone. Preemptive uses are defined as follows:
  - A. Uses that require substantial structural or capital improvements. Examples include, but are not limited to, construction of permanent buildings, paving, or installation of underground utilities.
  - B. Uses that require extensive alteration of the topography of the site, thereby reducing the potential for mitigation. Examples include, but are not limited to, extensive site grading or fill.

#### **Section 3.204 Removal of the Mitigation Site Protection Overlay Zone.**

1. After a mitigation site has been used for estuarine mitigation, restoration, creation, or enhancement, the Mitigation Site Protection Overlay Zone designation shall be removed. The wetland or aquatic area which has been restored, created, or enhanced through the mitigation action shall be placed in the appropriate aquatic zone. These changes shall be made by means of an amendment to the comprehensive plan and zoning ordinance.
2. Removal of the Mitigation Site Protection Overlay Zone before the site has been used wholly or in part for mitigation shall be done by an amendment to the comprehensive plan and zoning ordinance only where:
  - A. Provision is made for a replacement mitigation site; or
  - B. The development need for which the mitigation site was initially designated is withdrawn or re-evaluated.

### **Section 3.210 IC INSTITUTIONAL CAMPUS ZONE**

#### **Section 3.211 Purpose**

The purposes of this zone are to:

1. Foster the establishment and growth of schools, colleges, hospitals and other major public or semi-public institutions through long-term institutional master planning;
2. Identify and mitigate impacts of such growth on surrounding properties, natural hazard, and resource areas, and public infrastructure; and

3. Allow for administrative review of Institutional Master Plan (IMP) approved by the Planning Commission.

### **Section 3.212 Establishment of and Changes to the IC Zone Boundary**

The IC zone boundary may be established or amended pursuant to Article 9: Amendments

1. The IC zone may be applied to sites of 20 acres or greater if requested by the owner or lessee of the property.
2. The IC zone shall automatically be applied to any site of 20 acres or greater added to the urban growth boundary to meet a specific institutional need.

### **Section 3.213 Conditional Uses**

In the IC zone, the following conditional uses and their accessory uses are permitted subject to the provisions of this section and Article 6: Conditional Uses. In cases of conflict, the provisions of Section 3.210 shall prevail.

1. College and universities
2. Public and private schools
3. Hospitals and health facilities
4. Other large-scale public or semi-public institutional facilities
5. Administrative offices
6. Parking, loading and bus facilities
7. Retail (not to exceed 10% of total gross floor area of all buildings)
8. Child care centers or nursery schools
9. Group living (dorms, hospice, etc.)
10. Stadiums, arenas, and auditoriums
11. Scientific, educational, or medical research facilities and laboratories
12. Religious institutions
13. Museums
14. Supporting public facilities
15. Open space and natural areas

### **Section 3.214 Development Standards**

The following standards shall apply in the IC Zone:

1. Site size: Minimum of 20 acres.
2. Height restriction: Within 50 feet of any residential zone building height shall not exceed 35 feet; elsewhere on the site, the maximum building height shall not exceed 70 feet.
3. Required front, side and rear yard setbacks: Buildings shall be setback at least 20 feet from the property line where abutting a street or open space, residential or aquatic zone.

4. Open space: At least 20% of the institutional site area shall be planned for open space. Open space may include natural areas, outdoor athletic fields, planted areas or hardscapes such as plazas and playgrounds
5. All uses shall comply with applicable supplementary provisions of Article 4, unless an adjustment has been approved pursuant to Section 3.215.4.

### **Section 3.215 Institutional Master Plan (IMP) Option**

An institution requesting development related to uses listed in Section 3.213 may apply for a conditional use permit subject to applicable procedures, time limits and standards of Article 6: Conditional Uses. Alternatively, an institution may request approval of an IMP subject to the provisions of this section. If an institution chooses to apply for an IMP the following procedures and standards shall apply.

1. IMP Coverage Area. The IMP shall cover the entire institutional site, defined as all contiguous land under the control of the subject institution, zoned IC and within the urban growth boundary.
2. Application Requirements. In addition to meeting the application submittal requirements of Section 6.041, an IMP application shall:
  - a. Show the general location and height of new structures, circulation and parking areas, landscaping, and open space.
  - b. Identify potential impacts on development within 500 feet of the institutional site and recommend effective mitigation measures. At a minimum, the IMP application shall address impacts related to transportation, natural hazards, significant streams and wetlands, coastal resources, public facilities (sanitary sewer, domestic water and storm water drainage) and lighting.
  - c. Comply with all applicable development standards or demonstrate that one or more adjustments to applicable development standards is/are justified under Section 3.215.4.
3. Planning Commission Review. An application for an IMP shall be reviewed by the Planning Commission pursuant to Article 6: Conditional Uses and the provisions of this Section. In cases of conflict, the provisions of this section shall prevail.
  - a. Notwithstanding time limits set forth in Section 6.050, an IMP may be approved for a period of up to 10 years and may include one or more phases.
  - b. Pursuant to Section 6.025, if an IMP has been approved by the Planning Commission, the Planning Director is authorized to administratively approve one or more IDP applications that implement and substantially comply with the approved IMP.
  - c. An applicant may concurrently apply for an IMP and an implementing IDP. Such concurrent applications are reviewed by the Planning Commission pursuant to Article 6: Conditional Uses.
  - d. Any IDP proposal that deviates substantially from the approved IMP shall be referred to the Planning Commission for review pursuant to Article 6: Conditional Uses.
4. Adjustments to Development Standards. Notwithstanding the variance criteria found in Section 7.032, the Planning Commission may approve one or more adjustments to

development standards set forth in Section 3.214, when the Planning Commission determines that all of the following criteria are met:

- a. Each proposed adjustment equally or better meets the purposes of the IC zone as stated in Section 3.211.
- b. Each proposed adjustment shall be supported by an impact study provided by the applicant pursuant to Section 3.215. For example, the off-street parking requirements set forth in Section 4.102 Public and Semi-Public Buildings and Uses may be adjusted by the Planning Commission when justified by a parking analysis as part of a professional Transportation Impact Study.

### **Section 3.216 Review Criteria for Institutional Master Plans**

The Planning Commission shall approve an application for an IMP if the following approval criteria are met:

1. The proposal complies with applicable approval criteria and conditions set forth in Article 6: Conditional Uses;
2. The proposal complies with all applicable development standards set forth in Section 3.214 and Article 4: Supplemental provisions, unless an adjustment has been applied for and approved by the Planning Commission pursuant to Section 3.215.4;
3. The transportation system has sufficient capacity based on the City's level of service standards and is capable of safely supporting the development proposed in addition to the existing and planned uses in the area, or will be made adequate by the time each phase of the development is completed;
4. Public services for water supply, police, fire, sanitary waste disposal, and storm water disposal are capable of serving the proposed development, or will be made capable by the time each phase of the development is completed; and
5. The proposed IMP includes measures to avoid or protect any inventoried natural historic or cultural resources located on the site consistent with the provisions of any applicable overlay zones.

### **Section 3.217 Review Standards for Institutional Development Plans (IDP)**

The Planning Commission shall approve an application for an implementing IDP upon finding that:

1. The proposed uses and development layout substantially complies with the approved IMP and any related conditions or adjustments approved by the Planning Commission.
2. The application meets all other applicable development standards found in Section 3.214 except where an adjustment has been approved.

Pursuant to ORS 227.178(3), after an IMP is approved, and so long as that IMP is in effect, an applicant for an implementing IDP is entitled to rely on the land use regulations in effect on the date its IMP application was initially submitted. *(Updated per Ord. 2017-12)*

### **Section 3.300 SENSITIVE DEVELOPMENT (SD) OVERLAY ZONE**

**Section 3.301 Purpose.** The purpose of the Sensitive Development Overlay (SD) Zone is to identify and conserve specific areas of the city during the course of development that contain significant natural resources. The SD Zone is established in combination with other base and overlay zones. Establishment of the SD Zone is a two-step process as described in Section

3.307 of this chapter. Avoidance and minimization of impacts to identified significant natural resources during the course of development shall be achieved to the maximum extent practicable.

In the event of conflict, the provisions of this section shall supersede all other provisions of this chapter.

The SD Zone is an overlay zone which is depicted on the official zoning map pursuant to Section 3.307.1, and conceptual development plan approval is required prior to designation on the official zoning map except as provided by Section 3.307.1.

**Section 3.302 Zone Boundaries.** The SD Zone is applied to those areas shown on the official Seaside Zoning Map.

### **Section 3.303 Definitions**

1. "Best Management Practices" means use of control mechanisms intended to reduce the discharge of pollutants to the maximum extent practicable. These controls, which shall include state of the art practices in engineering, planning, administration and operations/maintenance activities, are categorized as source controls (pollution reduction), structural controls (detention ponds), and site erosion controls.
2. "Building Envelope" means the portion of a lot or parcel depicted on an approved conceptual development plan which may be altered to accommodate development. For purposes of this definition, development includes buildings, fences and walls, parking and loading areas, paved and graveled areas, but does not include public pathways and play areas or access driveways.
3. "Development" means any alteration to the site.
4. "Intermittent Streams" means any non-permanently flowing drainage feature having a definable channel and evidence of annual scour or deposition. Intermittent streams are distinguished from minor drainageways which carry water only after a storm event.
5. "Significant Natural Resources" means those important or unique natural resources listed in Section 3.304 of this chapter which are either included in official inventories in the acknowledged comprehensive plan or are identified in the conceptual development plan required under Section 3.307 of this chapter.
6. "Substantial Construction" means the start of construction intended to result in completion of the project or phase.
7. "Zoning Ordinance" means the acknowledged City of Seaside Zoning Ordinance.

### **Section 3.304 Protection of Significant Natural Resources**

1. Identification and Conservation Study: This section identifies the significant natural resources to be protected by this chapter. The study shall be submitted as part of the conceptual development plan approval process described in Section 3.307.2. The study shall identify areas containing identified significant natural resources, areas within which development may affect these resources and appropriate impact mitigation measures. The study shall include mapping and narrative analysis which addresses the nature and value of identified resources and measures which ensure avoidance or mitigation for adverse impacts to such resources. The study shall include, but not be limited to, a wetland delineation study.

2. Significant Natural Resources: For purposes of this chapter, significant natural resources include:
  - A. Perennial and Intermittent Streams. Perennial streams are watercourses with continuous flow. Intermittent Stream means any non-permanently flowing drainage feature having a definable channel and evidence of annual scour or deposition. Intermittent Streams are as defined in Section 3.303, above.  
  
For the Waterhouse property only, the perennial and intermittent streams on the property shall be those identified by Richard Flemming, Ph.D., as shown on the map in Exhibit 1 of the Waterhouse Trust application.
  - B. Significant Vegetation is trees over 12 inches (including snags) and groups of trees forming an identifiable landmark.
  - C. Hazardous Areas are slopes that, because of soil type, grade, or other factors, are prone to failure if disturbed, areas identified in Comprehensive Plan Policy 11.1 (1) "Geologic Hazard Policy", and areas identified in Seaside Zoning Ordinance Section 3.147 "Flood Hazard Zone."
  - D. Wetlands are areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
  - E. Significant Wildlife Species are those species listed by state or federal agencies as threatened or endangered. For purposes of this section, the identification and conservation study shall include an inventory of such species and their essential habitat, if any, which are present on the site.

**Section 3:305 General Development**

1. Purpose. These general development standards are intended to be the basis for the conceptual and final development plans required under Section 3.307 of this chapter. The conceptual development plan shall demonstrate compliance with these standards and shall include specific design standards to implement these standards. The final development plan shall provide a detailed, final site plan for the site and shall establish the specific design standards, which shall control development on and use of property in the SD Zone.
2. General Development Standards. The conceptual development plan shall ensure compliance with the following criteria:
  - A. Developable Areas are all areas except identified significant natural resource areas. Dwellings, accessory uses and other uses are to occur within identified building envelopes on each lot.
    1. Dwellings
      - a. Dwelling units and related development shall be located in identified building envelopes on each lot.
      - b. Building envelopes shall be clustered to avoid significant natural resources.
      - c. Adequate separation between dwellings shall be provided in order to encourage privacy.

- d. Fences and other screening devices shall be located only along or within the building envelope.
  - 2. Off Street Parking Areas
    - a. Off-street parking areas shall be located within identified building envelopes.
    - b. Driveways shall be limited to one per lot.
  - 3. Interior Streets
    - a. The conceptual development plan shall establish road standards for interior streets. The goal in establishing these standards is to minimize the width of rights-of-ways and impervious surfaces whenever possible and to design streets which are sensitive to the slopes, soil conditions, vegetation, and environmental conditions of the site. In general, streets shall be designed and located to avoid or minimize impacts to significant natural resources to the maximum extent possible. At maximum, right-of-way and street surface widths shall be consistent with City of Seaside standards, especially where slopes and drainage conditions require curbs and drains to accommodate storm water runoff; or where appropriate, the standards may generally conform to the guidelines provided in Exhibit 2 similar types of standards.
    - b. Perennial and intermittent streams shall be crossed only where there is no practical alternative to achieve the roadway purpose.
    - c. Streets shall be designed and located to avoid or minimize Impacts to identified significant natural resources to the maximum extent practicable. On-street parking may be prohibited on one or both sides of all streets. Sidewalks may not be required within the rights-of-way when replaced with a system of designated pedestrian, bicycle and other access ways as provided for in Section 3:305.2(4). The City may require fees in-lieu of sidewalk construction to be placed in a fund for road shoulder maintenance.
  - 4. Pedestrian, Bicycle and Other Access ways. Designated paths and trails shall provide pedestrian, bicycle and other accessways which provide routes within the plan boundaries and links to developed facilities adjacent to such boundaries.
  - 5. Utilities.
    - a. Utilities shall be located underground and within interior streets, driveways and building envelopes.
    - b. Perennial and intermittent streams shall be crossed only where there is no practical alternative.
  - 6. Outdoor Lighting.
    - a. Lighting shall be designed and located to minimize light pollution and off-site glare which may cause a deterioration of identified scenic views.
- B. Environmental Impacts
  - 1. Drainage and Water Quality

- a. Drainage shall be controlled so as to minimize soil erosion resulting from disturbance.
  - b. Water quality shall be assured during and after construction through best management practices.
  - c. Roof drains shall not drain directly into a stream without pre-treatment through biofiltration or similar practice.
2. Perennial and Intermittent Streams.
- a. Except for necessary roadway or utility crossings, the existing natural drainage system shall be maintained.
  - b. A setback of 50-feet shall be established from both sides of perennial or intermittent streams.
3. Wetlands.
- a. A wetland delineation study shall identify each wetland and establish its boundary.
  - b. A development setback of 100-feet shall be maintained from the boundary of all wetlands located in the A-3 Zone. A setback of 50-feet shall be maintained from the edge of all other delineated wetlands.
4. Landscaping Inside Building Envelopes
- a. Significant vegetation may be removed only when it is located in an approved building envelope or to construct approved public or private facilities.
  - b. Except for lawn areas, native vegetation shall be required.
5. Significant Trees.
- a. Existing trees identified as significant vegetation may be removed to accommodate new construction but may not be removed or topped in order to enhance a view.
  - b. All trees twelve (12) inch dbh to be removed shall be approved pursuant to Section 3.307.3.
6. Soil Erosion.
- a. Site clearing shall be limited to the minimum necessary for construction within development areas.
  - b. Best management practices shall be utilized to prevent soil erosion from cleared areas.

**Section 3.306 Uses Permitted and Dimensional Requirements**

- 1. All uses permitted in the base zone and attached single family dwellings are permitted if approved in the conceptual development plan.
- 2. Conditional uses permitted are those identified in the base zone where a separate conditional use permit has been obtained pursuant to Article 6 of the zoning ordinance.

3. Accessory uses are those customarily subordinate to outright uses or conditional uses for which approval has been obtained and include, but are not limited to, utility structures, storage buildings and common recreational facilities, including community clubhouses. The conceptual development plan may limit allowed accessory uses.
4. All development not in compliance with this chapter shall be prohibited except:
  - A. Surveys and tests necessary to comply with the requirements of this chapter. Such surveys and tests shall be conducted so as to create as little disturbance as possible on the site.
  - B. Removal of hazardous trees or parts of trees necessary to protect property or persons subject to the recommendation of a certified arborist.
5. The maximum gross residential density shall be two dwelling units per acre for the Waterhouse Trust property. Maximum densities for other properties shall be established in the conceptual development plan.
6. The maximum height of any structure shall be 35 feet.

### **Section 3.307 Approval Process**

1. Establishment of This District
  - A. Properties may be designated SD Overlay Zone on the official zoning map by the City Council at its discretion.
  - B. Any property owner may request establishment of the SD Overlay Zone subject to the approval process in this section.
  - C. Description: The first step in the approval process is conceptual development plan approval. The second step is final development plan approval. Upon final development plan approval, development activities and the issuance of building permits may occur in a manner consistent with the approved plan.
  - D. Conceptual Development Plan Review and Approval. The first step occurs with approval of the conceptual development plan and results in establishment of the SD Zone by an amendment to the official zoning map with an "SD" designation on the base zone unless previously mapped pursuant to Section 3.307.1.A above. Review and approval of the conceptual development plan shall be based upon the criteria in Section 3.307.4 of this chapter. The conceptual development plan demonstrates preservation of the significant natural resources in Section 3.304 of this chapter and compliance with the general development standards in Section 3.305 of this chapter. The Planning Commission reviews and approves the conceptual development plan. A final development plan may be submitted once the conceptual development plan is approved.
  - E. Final Development Plan Review and Approval. Review and approval of the final development plan shall be undertaken by the Planning Director or the Planning Commission, as specified in the conceptual development plan and is based upon the criteria in Section 3.307.6 of this chapter.
2. Conceptual Development Plan Application Process.
  - A. The process to establish an SD Overlay Zone begins by application for approval of a conceptual development plan unless previously mapped pursuant to Section

- 307.1.A above. The application is initiated pursuant to Section 9.010 of the zoning ordinance.
- B. The application shall be made to the Planning Director by submitting the required fee, a completed application form, and other information required by the section.
  - C. The Planning Director shall follow the procedure of the zoning ordinance's provision entitled "Final Action on Application for Permit or Zone Change Request" before forwarding the application to the Planning Commission for a public hearing.
  - D. Notice of the Planning Commission hearing shall follow the procedure of the zoning ordinance's provision entitled "Notice of Public Hearing".
  - E. The Planning Commission hearing shall follow the procedure of the zoning ordinance's provisions entitled "Public Hearing Procedures and Requirements".
3. Conceptual Development Plan Requirements Conceptual development plan approval shall be for the entire site. The conceptual development plan application shall contain the following information:
- A. The information required under Section 3.114.2.(a)(1)(2) and (4) of the zoning ordinance.
  - B. The identification and conservation study, including a written statement that identifies and describes the significant natural resources listed in Section 3.304 of this chapter and explains how they will be protected or what mitigation measures will be utilized if the resources can not be protected.
  - C. A written statement describing how the general development standards in Section 3.305 of this chapter will be implemented. This statement shall include all proposed uses and proposed specific design standards which explain how development of the site will achieve the general development guidelines.
  - D. A conceptual development plan map which includes the following information:
    - 1. Date of the drawing, scale, and north arrow;
    - 2. A title indicating "Conceptual Development Plan Map" with the name of the applicant and the file number assigned by the city;
    - 3. Existing structures, roads, easements, and utilities and identification of those to be removed.
    - 4. Adjacent land uses, zoning districts, and comprehensive plan map designations;
    - 5. Conceptual location of building envelopes and minimum setbacks;
    - 6. Phases, including number of phases, likely timing, sequence of phases, phasing of infrastructure improvements, and location of phases;
    - 7. Conceptual location, type and design requirements for outdoor public and private lighting for dwelling units, interior streets, and off-street parking areas;
    - 8. Conceptual street locations, alignment standards, including maximum horizontal and vertical alignments, and other paths and trails;
    - 9. Conceptual location of all utility lines, drainage facilities, and storm water detention ponds;

10. Location of significant natural resources identified in the identification and protection study;
  11. Identified cultural resources based upon State Historic Preservation Office or comprehensive plan inventories;
  12. Accessory uses;
  13. Maximum gross residential density.
- E. A surface water management plan to minimize storm water run-off impacts from the developed site onto other properties and maximize erosion control during construction. The surface management plan shall utilize best management practices to minimize erosion and control storm water run-off impacts.
  - F. Proposed significant natural resource mitigation plan, including mitigation techniques and area.
  - G. A traffic study indicating trip generation rates for each proposed use, existing capacity and level of service on affected streets, emergency access routes, and expected improvements necessary to accommodate the expected trips from the site.
  - H. Information on soils, including soil types and characteristics, and a detailed geotechnical report addressing landslide hazards, slope stability and other relevant factors.
4. Criteria for Approval of the Conceptual Development Plan. The conceptual development plan shall be evaluated according to the following criteria:
    - A. The proposed conceptual development plan implements the purpose of the SD Overlay Zone.
    - B. The proposed conceptual development plan protects significant natural resources identified in Section 3.304 of this chapter or where protection is not possible, adequate mitigation is provide
    - C. The proposed conceptual development plan contains proposed specific design standards that implement the general design standards in Section 3.305 of this chapter.
    - D. The proposed conceptual development plan demonstrates that the proposed development will be compatible with surrounding land uses.
    - E. The proposed conceptual development plan demonstrates that the proposed development can be served by existing or planned public or private facilities and services.
  5. Planning Commission Action on Conceptual Development Plan.
    - A. The Planning Commission may approve, approve with conditions, or deny the application. The Planning Director mails written notice of the decision, signed by the presiding officer of the Planning Commission, to all persons entitled to notice, unless appealed. The decision may be appealed to the City Council as provided in Section 10.030 of the zoning ordinance unless called by majority vote of the City Council within the appeal period.
  6. Mandatory and Discretionary Review of an Approved Conceptual Development and Final Development Plan.

- A. The approved conceptual development plan may be modified upon a finding that the proposed modification conforms to the criteria for approval of a conceptual development plan in Section 3.307.4 and that the proposed modification is consistent with the remainder of the approved conceptual development plan and any prior approved final development plan. An approved final development plan may be modified upon a finding of conformance with the approved concept plan and any prior approved final plan.
  - B. Modification of an approved conceptual or final development plan shall be subject to review and approval by the Planning Commission pursuant to Section 3.307.5 of this chapter.
7. Final Development Plan Approval Process.
- A. Application for final development plan approval shall be made to the Planning Director. The Planning Director shall notify the Planning Commission of such applications.
  - B. Final development plan approval may be for a phase approved in the conceptual development plan or the entire site. The final development plan shall contain the following information:
    1. The information required for a conceptual development plan in Section 3.307.3.D (1)-(9) of this chapter.
    2. Detailed, final drawings identifying, describing, and locating the significant natural resources in Section 3.304 of this chapter to be preserved or the mitigation measures to be taken if not preserved.
    3. Detailed, final drawings identifying, describing and locating the information in Section 3.305 of this chapter.
    4. Final specific design standards for the site based upon the proposed specific design standards in Section 3.307.3.C of this chapter as established in the approved conceptual development plan.
    5. Final contours at two (2) foot intervals.
    6. Phases, their sequence of development, and an estimated date for start of substantial construction of each phase, if in the approved conceptual development plan.
    7. Identification of areas to be dedicated to the public, a homeowners organization or other organization.
  - C. Criteria for Approval of the Final Development Plan. The Planning Director shall approve a final development plan if it substantially conforms in all respects to the approved conceptual development plan, unless the conceptual development plan approval requires Planning Commission review of the final development plan or the Planning Commission initiates review pursuant to Section 3.307.6.B.
  - D. Planning Director's Decision. The Planning Director shall provide written notice of approval of the final development plan to all persons as required by Section 10.061 B of the zoning ordinance and to the Planning Commission. The Planning Director's decision shall become final on the date written notice is mailed unless appealed. The decision by either the Planning Director or the

Planning Commission may be appealed as provided in Section 10.030 of the zoning ordinance.

- E. Authorization. Final development plan approval authorizes grading and clearing and issuance of building permits in conformance with the approved final development plan.
- F. Land Division. Except for approved public or private facility improvements, no building permits for development shall be issued prior to recording of the final plat.

### **Section 3.308 Additional Provisions**

1. A pre-application conference with the Planning Director is required prior to submission of the conceptual and final development plan.
2. There is no minimum or maximum size requirement for establishment of an SD Overlay Zone.
3. An approved conceptual development plan may be modified through the process in Section 3.307.2 of this chapter.
4. An approved final development plan may be modified through the process in Section 3.307.6 of this chapter in order to conform to an amended conceptual development plan.
5. Approved conceptual development plans shall expire within three (3) years of final approval, including resolution of all appeals, unless final development plan approval has been received. If the approved development plan includes phases, the conceptual development plan approval shall expire within three (3) years of final approval, including of all appeals, unless final development plan approval for the first has been received. the expiration date may be extended pursuant to Section 3.308.11, below.
6. All plans and drawings required by this chapter shall be clearly and legibly drawn at an appropriate scale.
7. All grading, clearing and construction in an SD Overlay Zone shall be in compliance with the approved final development plan.
8. Except for minor grading or clearing necessary to provide the information required under Section 3.307.3 of this chapter, no grading or clearing shall be permitted on a site after an application for establishment of an SD Overlay Zone has been submitted to the city under Section 3.307.1, except in compliance with applicable provisions of this chapter.
9. The specific design standards in an approved conceptual development plan shall constitute the applicable development criteria for each SD Overlay Zone and serve to implement the general development guidelines set forth in Section 3.305 of this chapter.
10. Substantial construction of a final development plan shall begin within two (2) years from the date of final approval of the final development plan. The date of final approval is the date of mailing of the notice of decision by the Planning Director or, if appealed, the date of mailing of the notice of the decision by the appellate body. "Substantial construction" means any of the following:

- A. Completion of 25 percent (25%) of roads and utilities;
  - B. Issuance of building permits equal to 15 percent (15%) of the total number of approved dwelling units; or
  - C. Determination by a court of competent jurisdiction that a vested right exists.
11. One six (6) month extension of an approved conceptual development plan or approved final development plan approval may be granted by the Planning Commission if it finds:
- A. The extension is necessary because of unexpected delays or conditions that are not self-imposed, and,
  - B. Conditions on adjacent property have not changed to such an extent that the SD Overlay Zone is no longer compatible with adjacent land uses.
  - C. The extension request shall be filed no later than six (6) months prior to the expiration date. The request shall be processed under Article 10 of the zoning ordinance. If approved, the extension shall run from the expiration date of the approved conceptual or approved final development plan.
12. Enforcement.
- A. The City Manager or the City Manager's designee enforces the requirements of this chapter.
  - B. Any person who fails to comply with, or who violates any provision of this chapter, or who fails to carry out the terms and conditions any approval granted under this chapter, shall be subject to a fine of not less than \$100.00 nor more than \$1,000.00 per violation. Each day that the violation exists is a separate violation.
  - C. Any permit or approval issued or granted in conflict with the provisions of this chapter, whether intentional or otherwise, is void.
  - D. Any action or use which occurs contrary to the provisions of this chapter or contrary to any permit or approval issued or granted hereunder is hereby declared to be unlawful and a public nuisance and may be abated by appropriate proceedings.
  - E. Upon request of the City Manager, the City Attorney may institute an appropriate action in any court to enjoin the maintenance of any principal or accessory use, occupation, building or structure which is in violation of any provision of this chapter.
  - F. The rights, remedies, and penalties in this chapter are cumulative.

## ARTICLE 4

### SUPPLEMENTARY PROVISIONS

#### **Section 4.010 ACCESSORY USE, GENERAL PROVISIONS**

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

**Section 4.011 Fences, Walls, and Plants.** Fences, walls, or plantings shall be constructed or maintained only so as to permit unobstructed vision of passenger vehicle operators when approaching intersecting streets or driveways. Fences, walls and plantings on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators, shall be constructed or maintained so as to insure light and air and maintain aesthetic freedom for adjacent properties.

**Section 4.012 Greenhouses or Hothouses.** A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing is grown to be sold.

**Section 4.013 Guest House.** A guest house without kitchen facilities may be maintained accessory to a dwelling.

**Section 4.014 Yard Requirements.** Regardless of the yard requirements of the zone, a side or rear yard may be reduced to five feet for an accessory structure. The total area of all accessory structures shall not exceed 1,000 square feet on any lot unless a larger accessory use is approved by the Planning Commission as being consistent with and enhancing the residential nature of the property.

**Section 4.015 Livestock.** Keeping of livestock shall be in buildings that fully comply with building and sanitary codes.

**Section 4.016 Colonies of Bees.** Keeping of colonies of bees shall be prohibited except that the Planning Commission may approve an application to keep not more than two colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the bees are proposed to be kept.

**Section 4.017 Unattached Garage.** An unattached garage shall be considered an accessory structure. An attached garage shall be considered as part of the main structure but is limited to a maximum of 1,000 square feet unless a larger accessory use is approved by the Planning Commission as being consistent with and enhancing the residential nature of the property.

#### **Section 4.018 Accessory Dwelling Units (ADUs)**

An interior or attached ADU will be considered part of the primary dwelling and it will not be subtracted from the total square footage allowed for accessory structures, but the total floor area for any ADU shall not exceed 525 square feet without approval of a conditional use by the Planning Commission, but in no case shall the total square footage exceed 800 square feet.

ADUs must also conform to the following additional limitations.

1. Detached ADUs cannot exceed one story unless they are incorporated into the second story of a detached garage.

2. One additional off street parking space must be provided in addition to the two spaces provided for the single family dwelling the ADU is accessory to and the additional space must be accessible without moving vehicles in the other two spaces.
3. ADUs are not subject to the limitations in Section 4.080; however, a detached ADU must be set back a minimum of five feet from the primary dwelling.
4. ADUs are not subject to the dwelling unit density in residential zones but they are only allowed on lots that meet the minimum lot size in the zone.
5. ADUs, and the single family dwelling it is accessory to, cannot be used for transient rental such as a vacation rental dwelling (VRD). *(Updated per Ord. 2018-09)*

**Section 4.020 ACCESS REQUIREMENTS.**

Every lot shall abut a street other than an alley for at least 25 feet.

**Section 4.021 Access Requirements to U.S. Highway 101.** The Planning Commission will do a site review of all proposed developments on or adjacent to Highway 101 to consider impacts of the development on the traffic carrying capacity and safety of U.S. 101.

The city and the State Highway Division shall cooperate to reduce traffic congestion along U.S. 101 through:

1. The requirements that new uses access onto side streets whenever possible; and
2. Widening or relocation of street right-of-ways, particularly in the south part of the city.

**Section 4.022 LANDSCAPING REQUIREMENTS**

**Section 4.023 Landscaping Requirements Adjacent to U.S. Highway 101.** The Planning Commission will do a site review of all proposed developments on or adjacent to Highway 101 to assure that adequate landscaping is provided to buffer the development from the highway.

As a minimum requirement, an average of a 10-foot strip of landscaping adjoining the highway right-of-way will be provided.

A landscape plan and time schedule for the implementation of the plan will be submitted as a part of the application to the Planning Commission

**Section 4.027 SIDEWALK AND RECREATION TRAILS.**

Developers shall include and construct the portion of the proposed bike or hiking routes that run through or along the new development property as shown on the City's Comprehensive Plan Transportation Plan Maps. In land division and partitioning approval actions, the Planning Commission may waive the requirement for sidewalks where a bike and/or foot path system would be continued, and would be more appropriate for pedestrians and bicycling transportation.

**Section 4.028 DISH ANTENNAS:**

Are permitted as an outright use. Dish antennas 48 inches in diameter or larger shall meet the following criteria:

1. Installation in rear or side yards behind front of the house.
2. Must be 5 feet from all property lines.

Section 4.030 through 4.035 of Ordinance No. 83-10, the Seaside Zoning Ordinance, have been repealed by Ordinance No. 88-2, the City of Seaside Sign Code.

## **Section 4.050 CLEAR VISION AREAS AND FENCES**

A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad.

1. A clear vision area shall consist of a triangular area in all zones, two sides of which are street lot lines and the third side of which is a line across the corner of the lot connecting the ends of the other two sides. The length of the two sides of the clear vision area shall be twenty feet (20') from the intersection of the two street lot lines, or ten feet (10') at intersection which includes an alley.
2. A clear vision area shall contain no planting, fence, wall structure, or temporary or permanent obstruction exceeding three feet (3') in height, measured from the top of the curb, or where no curb exists, from the established street center line grade. Trees exceeding this height may be located in the area provided all branches and foliage are removed to a height of eight feet (8') above the grade. An open wire fence may have a maximum height of six feet (6') in the clear vision area.
3. Weeds, grass, shrubs, trees, paper material, or any other form of obstruction adhering to or adjacent to the fence, which denies clear vision, is a violation of the open wire fence ordinance in a clear vision area.

**Section 4.051 Fence Requirements:** In all zones, fences shall be governed by the following requirements:

1. Maximum height of fences in residential zones within the required yard area shall be six feet (6') on the side and rear yards. Maximum height of fences within the required front yard setback area shall be three feet (3'). Open wire fences may have a maximum height of six feet (6').
2. In commercial zones, fence heights greater than six feet (6') may be allowed by the Planning Commission where it is shown that a valid need exists.
3. Barbed wire fences shall not be allowed except for special uses such as vandal proofing top sections in utility substations or storage yards, livestock fencing in an EFU zone, and similar uses as may be determined by the Planning Commission.
4. Fences shall be constructed of lumber, metal, or other standard fencing materials and shall be of conventional design unless it is determined by the Planning Commission that an alternative design is deemed acceptable.
5. Fence height shall be measured from ground level surrounding the fence, except in a clear vision area where the fence shall be measured from the adjoining average street grade. The foregoing provision on clear vision areas shall not apply in places where the contour of the ground is such that there can be no cross visibility at the intersection.
6. Plantings, hedges, and trees in the required yard area used as a fence or wind break may be higher than the allowed limits in the rear or side yard provided they do not block sunlight, encroach on adjoining property, obstruct the view or create a safety hazard to adjoining property.
  - A. When a complaint is filed with the City Code Enforcement Officer concerning the height of a planting screen, the Code Enforcement Officer shall inspect the

property and submit a report to the Planning Commission which shall rule on the applicability of this Section.

#### **Section 4.052 OUTDOOR STORAGE**

In all zones, outside storage of a permanent nature must be screened from public view by a site obscuring fence not less than five feet tall. For purposes of this regulation, outdoor storage applies to inoperable vehicles, appliances, rental equipment, lumber and other items not used periodically. Exempt from these regulations are firewood not exceeding three cords when cut to size and properly stacked and when not in the front yard setback; landscape nurseries, and new and used car lots.

#### **Section 4.060 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS**

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this Ordinance, except by dedication or conveyance for a public use.

#### **Section 4.070 DUAL USE OR REQUIRED OPEN SPACE**

No lot area, yard, or other open space, or off-street parking or loading area which is required by this Ordinance for one use, shall be a required lot area, yard, or other open space, or off-street parking or loading area for another use, except as provided in Section 4.123.

#### **Section 4.080 BUILDINGS ON THE SAME LOT**

A minimum of five feet shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-1 and R-2 Zones, only one building designed for dwelling purposes shall be permitted per lot.

#### **Section 4.100 OFF-STREET PARKING REQUIREMENTS**

At the time a structure is erected or enlarged, or the use of a structure or parcel of land is changed within any zone in the City, off-street parking spaces shall be provided in accordance with the requirements of this Section and Section 4.120, unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this Section. Where square feet are specified, the area measured shall be the customer accessible area, covered or uncovered, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

#### **Section 4.101 Residential.**

<b>Uses</b>	<b>Parking Spaces Required</b>
1. One or two family dwelling	Two spaces per dwelling unit
2. Apartment dwellings, condominium or time share project.	Two spaces per dwelling unit
3. Rooming or boarding house or fraternity	One space per guest room or suite, plus one additional space per two employees.

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| 4. | Hotel, motel or tourist court   | One space per room, suite or unit, plus one space for manager or owner.  |
| 5. | Manufactured Dwelling Park  | Two spaces per manufactured dwelling.  |
| 6. | Convalescent, nursing and other health homes and institutions, homes for aged, children's homes and welfare or correctional institutions. | One space per three beds for patients, plus one additional space per two employees                                     |
| 7. | Assisted living facilities  | One space per three units or greater as may required by the reviewing body to meet the needs of the specific proposal. |

**Section 4.102 Public and Semi-Public Buildings and Uses.**

<b>Uses:</b>	<b>Parking Spaces Required</b>
1. Auditorium or meeting room (other than a school or church)	One space for each 60 s.f. of floor area in the auditorium, or where seating is fixed to the floor, one space for each four seats, or eight feet of bench length.
2. Church	One space per 80 sq. ft. of floor area in the main assembly area, or where seating is fixed to the floor, one space per four seats, or eight feet of bench length.
3. Club, Lodge or association	Spaces to meet the combined requirements of the uses being conducted, such as hotel, restaurant, auditorium, etc.
4. Hospital.	One and one half spaces per bed.
5. Library.	One space per 400 sq. ft. of reading room, plus one space per two employees.
6. Kindergarten, pre-school, nursery, or equivalent private or parochial school	One space per employee
7. Elementary, Junior High or equivalent private or parochial schools.	One space per employee or one space per four seats or eight feet of bench in auditorium or assembly room, whichever is greater
8. Senior High School or equivalent private or parochial school.	One space per employee or one space per four seats, or eight feet of bench length in auditorium or assembly, whichever is greater.
9. College, university, institution of higher	One space per three seats in

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| education or equivalent private or parochial school. | classroom   |
| 10. Passenger terminal.                              | One space for each 500 sq.ft. of floor area.  |
| 11. Post Office.                                     | One space for each 50 sq.ft. of patron service floor area, plus one space per employee. |

**Section 4.103 Commercial**

<b>Uses:</b>	<b>Parking Spaces Required</b>
1. Retail store, except provided in sub section '2' below.	One space for each 200 s.f. of floor area plus one space per employee
2. Service or repair shop or retail store handling bulky merchandise such as automobiles or furniture.	One space for each 600 s.f. of floor area, plus one space per employee
3. Bank or office, except medical or dental.	One space for each 400 s.f. of floor area, plus one space per employee.
4. Medical or dental clinic	One space per 300 sq.ft. of floor area, plus one space per employee.
5. Eating or drinking establishment.	One space per 150 s.f. of floor area, plus one space per employee.
6. Mortuary.	One space per 4 chapel seats or eight feet of bench length.

**Section 4.104 Commercial Recreation**

<b>Uses:</b>	<b>Parking Spaces Required</b>
1. Amusement Park.	One space for each 1,000 s.f. of patron serving area.
2. Billiard or pool hall.	One space per table, plus one space per employee.
3. Bowling alley.	Five spaces for each alley, plus one space for each employee.
4. Dance hall, skating rink or gymnasium.	One space per 50 s.f. of patron area, plus one space per employee.
5. Go-kart track.	One space per kart, plus one space per employee.
6. Golf driving range.	One space per 10 linear feet of driving line.
7. Indoor arena or theater.	One space per four seats or eight feet of bench length.
8. Miniature golf course.	One space per two holes plus one space per employee.

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| 9.  | Race track or stadium.   | One space per four seats or eight feet of bench length.              |
| 10. | Shooting gallery/ parade | One space per 500 sq.ft. of floor area, plus one space per employee. |
| 11. | Swimming pool.           | One space per 50 sq.ft of pool, plus one space per employee.         |

**Section. 4.105: Industrial Uses:**

**Parking Spaces Required**

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| 1. | Manufacturing Use     | One space per employee.   |
| 2. | Storage or wholesale. | One space per employee plus one space per 700 s.f. of patron serving area |

**Section 4.110 OFF-STREET LOADING REQUIREMENTS**

At the time a structure is erected or enlarged, or the use of a structure or parcel of land changes within any zone in the City, off-street loading spaces shall be provided in accordance with the requirements of this Section and Section 4.120, unless greater requirements are otherwise established.

**Section 4.111 Merchandise, Materials or Supplies, and Solid Waste Disposal.** Buildings or structures to be built or substantially altered which receive and distribute material including solid waste or merchandise by truck, shall provide and maintain off-street loading berths in accordance with standards adopted by the Planning Commission. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs or the particular use. Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

**Section 4.112 Passengers.** A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers, shall be located on the site of any school or other public meeting place which is designed to accommodate more than 25 persons at one-time.

**Section 4.120 OFF-STREET PARKING AND LOADING, GENERAL PROVISIONS.**

The following general provisions shall govern the application of off-street parking and loading requirements:

**Section 4.121 Building and Uses not Listed.** 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.

**Section 4.122 Several Uses Occupying a Single Structure.** In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking and loading shall be the sum of the requirements of the several uses computed separately.

**Section 4.123 Owners of Two or More Uses.** Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City in the form of deeds, leases or contracts to establish the joint use.

**Section 4.124 Off-Street Parking.** Off-street parking for dwellings shall be located on the same lot with the dwelling. Required off-street parking spaces for other uses shall be located not farther than 200 feet from the building or use they are required to serve, measured in a straight line from the building.

**Section 4.125 Required Parking Spaces.** Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of delivery vehicles used in conducting the business or use.

**Section 4.126 Required Parking and Loading Spaces.** Required parking and loading spaces shall not be located in a required front yard or street side yard except for one or two- family dwellings.

**Section 4.127 Meeting Off-Street Parking and Loading Requirements.** A plan drawn to scale and dimensioned, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building permit.

**Section 4.128 Design Requirements for Parking Spaces.** Design requirements for parking spaces and loading areas shall be as follows:

1. Any area used for standing and maneuvering of vehicles shall have adequate surface drainage so as to avoid water standing or flowing onto adjacent properties.
2. Except for parking to serve one or two-family residential uses, parking and loading areas adjacent to or within residential zones, or adjacent to residential uses, shall be designed to minimize disturbances of residents by the erection between the uses of a sight-obscuring fence of not less than five nor more than six feet in height except where vision clearance is required.
3. Parking spaces along the outer boundaries of a lot shall be contained by a curb at least four inches high and set back a minimum of 4.5 feet from the property line.
4. Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.
5. Parking spaces and aisles for turning and maneuvering of vehicles shall be in accordance with standards adopted by the Planning Commission.
6. Groups of five or more parking spaces shall be served by a driveway so no backing movements or other maneuvering within a street other than an alley will be required.
7. On parking lots having five or more parking spaces, such spaces shall be clearly marked in a permanent manner.
8. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum which will allow the property to accommodate and service traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.

**Section 4.129 Parking Lots of Ten or More Spaces.** For parking lots of 10 spaces or more, no more than 30-percent can be designed for compact cars without Planning Commission review. If more than 30-percent of the spaces are compact, the parking design is subject to

Planning Commission review. In no case shall compact spaces exceed 60-percent of the total spaces required.

### **Section 4.130 HOME OCCUPATION**

The home occupation provision is included in recognition of the needs of many people who are engaged in small scale business ventures which could not be sustained if it were necessary to lease commercial quarters for them, or which, in the nature of the home occupation, cannot be expanded to full scale enterprise. (Example: supplemental retirement income, juvenile self-employment, mothers who must support and remain at home with pre-school children, etc.)

It is the intent of this Ordinance that full scale commercial or professional operations, which would ordinarily be conducted in a commercial or industrial district, continue to be conducted in such district and not at home.

**Section 4.131 Standards.** A home occupation shall mean any occupation or profession carried on by a member of the family residing on the premises, provided the following conditions are satisfied:

1. No sign is used other than a nameplate not more than one square foot in area.
2. There is no display that will indicate from the exterior that the building is being used in whole or in part for any purpose other than a dwelling.
3. There is no outside storage of materials other than plant materials.
4. There is a restriction of no more than thirteen children, plus family, for day nurseries. (Day nurseries with more than thirteen children shall be permitted as outlined elsewhere in this Ordinance.
5. There are no outside paid employees.
6. The building retains the characteristics of a residence.
7. The use does not destroy the residential character of the neighborhood.
8. Will be operated in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.
9. Will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

**Section 4.132 Complaint Procedures:** Complaints on conditions (1) through (5) of Section 4.131 will be handled routinely by the Code Enforcement Officer. Complaints on conditions (6) and (7) will be dealt with as follows: The Planning Commission shall review home occupations upon receipt of three written complaints from three separate households located within 200 feet of the boundary of the affected property, or a complaint from the Code Enforcement Officer. Said complaints shall set forth the nature of the objection. Such complaints shall be investigated by the Code Enforcement Officer, and results of the investigation shall be reported to the Commission at a public hearing. The public hearing procedure shall be the same as outlined in Section 10.060.

Standards for judging objections shall include:

1. Generation of excessive traffic.
2. Monopoly of on-street parking spaces.
3. Frequent deliveries and pickups by motor freight.

4. Noise in excess of that created by normal residential use.
5. Smoke, fumes or odors in excess of those created by normal residential use.
6. Other offensive activities not in harmony with a residential neighborhood.

**Section 4.133 Action by the Commission.** The Commission, upon hearing the evidence may:

1. Approve the use as it exists.
2. Require the use to be terminated.
3. Impose appropriate restrictions, such as limiting hours of operation, establishing a phase-out period, or other measures insuring compatibility with the neighborhood.

The determination of the Commission becomes final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 4.134.

**Section 4.134 Appeals.** During the period of ten (10) days referred to in Section 4.133, appeals from action of the Commission may be taken to the Council by the applicant or other interested party. Such appeal shall be filed with the City Manager and shall state the grounds thereof and wherein the Commission failed to conform to the requirements of these sections. The City Manager shall forthwith transmit one copy of appeal to the Code Enforcement Officer. The home occupation may continue until the termination of any appeal pending against it.

**Section 4.135 MANUFACTURED HOME ON AN INDIVIDUAL LOT**

1. The manufactured home shall be multi-sectional and enclose a floor space of not less than 1,000 square feet.
2. Shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is not located more than twelve inches (12") above grade.
3. Shall have a pitched roof with a nominal pitch of three feet (3') in height for each twelve feet (12') in width.
4. Shall not have bare metal siding or roofing.
5. Shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single family dwellings constructed under the state building code as defined in ORS 455.010 OR efficiency standards.
6. Shall have a garage or carport constructed of like materials.
7. Shall utilize at least two of the following design features:
  - A. dormers
  - B. recessed entries
  - C. cupolas
  - D. bay or bow windows
  - E. attached garage
  - F. window shutters
  - G. off-sets on building face or roof (minimum 12")
  - H. gables

- I. covered porch entry
- J. pillars or posts
- K. eaves (minimum 6")
- L. tile or shake roof
- M. horizontal lap siding.

**Section 4.140 STANDARDS APPLYING TO GEOLOGIC HAZARD AREAS**

**Section 4.141 Purpose.** To establish special criteria and procedures for development, subdivisions and partitions in potential geologic hazard areas so as to reduce the potential for property damage and personal injury.

**Section 4.142 Areas Where Standards Apply.** The Standards in this section shall apply to all proposed development and subdivisions and partitions in the following areas:

1. Sites that are composed of areas with slopes of 15% or greater, sites that are situated adjacent to slopes of 15% or greater, or other sites as determined by the City Council, Planning Commission or Planning Director
2. Areas upland from the Seaside cove shown as landslide topography underlain by tertiary sedimentary rocks (TOMS) as shown in the maps accompanying the report "Environmental Geology of the Coastal Region of Tillamook and Clatsop County", by DOGMI.

**Section 4.143 Standards.**

1. The applicant shall submit a Hazard Mitigation Plan (HMP) which describes the extent and severity of the Geologic and Erosion hazard(s), the capability of the site and adjacent affected areas to support the proposed development, and the recommended techniques/safeguards that could be used to adequately protect life, property and environment on and adjacent to the site. The HMP shall be prepared and certified by a Certified Engineering Geologist registered in the State of Oregon, or a Civil Engineer registered in the State of Oregon specializing in the area of Geotechnical Engineering, and submitted by the applicant.
2. The applicant shall submit a Grading and Erosion Control Plan (GECP) for the proposed development. The GECP shall comply with the requirements of Section 4.200 of the Zoning Ordinance. The GECP shall be submitted in conjunction with a HMP.
3. The HMP shall, at a minimum, consider the following:
  - A. Cut and fill methods of leveling lots shall be discouraged. Structures should be planned to preserve natural slopes as much as possible.
  - B. Access roads and driveways shall follow the slope contour whenever possible to reduce the need for grading and fillings.
  - C. Removal of vegetation shall occur only for those areas to be improved by the proposed development.
  - D. No development shall be allowed to block stream drainage-ways in any area or to increase the water level on adjacent property.

4. Approval of a proposed development, subdivision, or partition shall be conditioned on the applicants' agreement to provide the safeguards and construction techniques recommended in the HMP.

Where necessary, the Building Official may require an engineer's stamp on the building plans in addition to a geotechnical report.

5. Standards in this section for proposed subdivisions shall be applied through the applicable review and approval procedures of the City's Subdivision and Land Partitioning Ordinance 74-36.

**Section 4.144 Bond.** The applicant may be required to post a performance bond to insure that safeguards recommended in the HMP are implemented.

**Section 4.145 Warning and Disclaimer of Liability.** The degree of protection from geologic hazards required by this section is considered reasonable for regulatory purposes.

This section does not imply that land outside areas identified in Section 4.142, or developments permitted within such areas, will be free from geologic hazards. This section shall not create a liability on the part of the City of Seaside, or by an officer or employee thereof, for any damages due to geologic hazard that result from reliance on this section or any administrative decision lawfully made there under.

#### **Section 4.150 FOREDUNE MANAGEMENT OVERLAY ZONE**

##### **Section 4.151**

1. Purpose: This overlay zone implements the policies in the City of Seaside Fore dune Management Plan as adopted by the City of Seaside in January 1995. Its purpose is: To maintain and enhance protection from ocean flooding and erosion provided by the fore dune area; To maintain and enhance public access to the open sand beach; To maintain and enhance ocean views from the Promenade Wall; and To minimize excessive accumulation of wind-blown sand.
2. Mapping: The City of Seaside Fore dune Management Plan: Management Strategy document accurately maps the areas covered by this overlay zone. Five management units are recognized in this zone. They are the Central Management Unit, between Fifth Avenue and Avenue E; the North Central Management Unit, between Fifth Avenue and 19th Avenue; the Northern Management Unit, between 19th Avenue and the mouth of the Necanicum River; the South Central Management Unit, between Avenue E and Avenue U; and the Southern Management Unit, between Avenue U and Tillamook Head. The City of Seaside Fore dune Management Plan: Management Strategy document describes these management units in more detail, and defines subunits within some of the management units.

**Section 4.152 Outright Uses, Central Management Unit:** The following uses and activities are permitted outright in the Fore dune Management Overlay Zone's Central Management Unit, subject to the standards in Section 4.159.

1. Uses and Activities permitted outright in the base zone.
2. Management unit-wide dune grading pursuant to the City of Seaside Fore dune Management Plan: Management Strategy and accompanying Goal 8 exception.
3. Vegetative Stabilization.
4. Sand removal limited to transfers between and within management units.

5. Mechanical Sand Collection, north and south subunits.
6. Vegetation Maintenance, including mowing grass.

**Section 4.153 Outright Uses, North Central Management Unit:** The following uses and activities are permitted outright in the Foredune Management Overlay Zone's North Central Management Unit, subject to the standards in Section 4.159.

1. Uses and activities permitted outright in the base zone.
2. Dune grading:
  - A. North of 12th Avenue, limited to that allowed under the Goal 18 Exception that applied in this area, and to minor crest grading and foreslope shaping.
  - B. South of 12th Avenue, pursuant to the City of Seaside Foredune Management Plan: Management Strategy and accompanying Goal 18 exception.
3. Vegetative Stabilization.
4. Sand removal from the subunit south of 12th Avenue, limited to transfers between and within management units.
5. Dune nourishment in subunit north of 12th Avenue.
6. Vegetation Maintenance, including mowing grass.

**Section 4.154 Outright Uses, Northern Management Unit:** The following uses and activities are permitted outright in the Foredune Management Overlay Zone's Northern Management Unit, subject to the standards in Section 4.159.

1. Uses and activities permitted outright in the base zone.
2. Dune nourishment.
3. Vegetative Stabilization.
4. Vegetation Maintenance.

**Section 4.155 Outright Uses, South Central Management Unit:** The following uses and activities are permitted outright in the Foredune Management Overlay Zone's South Central Management Unit, subject to the standards in Section 4.159.

1. Uses and activities permitted outright in the base zone.
2. Vegetative Stabilization.
3. Vegetation Maintenance, including mowing grass and pruning trees.

**Section 4.156 Outright Uses, Southern Management Unit:** The following uses and activities are permitted outright in the Foredune Management Overlay Zone's Southern Management Unit, subject to the standards in Section 4.159.

1. Uses and activities permitted outright in the base zone.
2. Dune Nourishment.
3. Vegetative Stabilization.
4. Vegetation Maintenance.

**Section 4.157 Conditional Uses, All Management Units:** The following uses and activities and their accessory uses and activities may be permitted in all of the Foredune Management

Overlay Zone's management units, subject to the Provisions of Article 6 and subject to the standards in Section 4.159.

1. Uses and activities permitted conditionally in the base zone.

**Section 4.158 Prohibited Uses.** All Management Units: The following uses and activities are prohibited in the Fore dune Management Overlay Zone:

1. Sand removal, except transfers between and within management units for the purpose of dune nourishment.
2. Dune grading below the elevations established in the City of Seaside Fore dune Management Plan: Management Strategy and Goal 18 exceptions.
3. Dune grading on individual lots.

**Section 4.159 Standards:** The following standards apply to dune management activities in the Fore dune Management Overlay Zone:

1. Dune grading, where allowed, may only be conducted during the early spring (March - April) or fall (October).
2. Dune grading, where allowed, may only be conducted on a management unit-wide basis.
3. A plan must be submitted to the City of administrative review prior to undertaking dune grading, sand collection, sand stabilization, or dune nourishment activities in the Fore dune Management Overlay Zone. Administrative review of the plan shall be confined to determining consistency with the City of Seaside Fore dune Management Plan: Management Strategy and existing goal 18 exceptions, and compliance with the City's zoning ordinance. The plan shall contain the following elements:
  - A. Description of the proposed work;
  - B. Plan view and elevations of existing conditions in the work area;
  - C. Plan view and elevations of proposed modifications in the work area; and
  - D. Monitoring and maintenance programs.

The plan shall also identify the individual(s) responsible for supervising the project. The City or its representative shall inspect the work area before and after grading to confirm that grading and other measures have been done in compliance with the specifications outlined in the plan.

4. Violations of the provisions of this overlay zone are subject to the remedies in Article 12 of this zoning ordinance. Where possible, the City will seek restoration to pre violation conditions before seeking any of the penalties allowed under Article 12.

Section 2. The Seaside City Council did hold a public hearing to receive testimony and findings in favor of and in opposition to the zone code amendment.

#### **Section 4.160 STANDARDS FOR SHORELAND DEVELOPMENT.**

##### **Section 4.161 Protection of Riparian Vegetation.**

1. Riparian vegetation as mapped on the 1:400 photo contour maps entitled "Significant Wetland and Upland Biological Habitat" on file at the City of Seaside and hereby incorporated by reference, shall be maintained except where direct access for a water dependent use is required.

2. Riparian vegetation has been identified on the above mentioned maps as a zone twenty five feet (25') wide from the shoreline of coastal lakes, river, estuaries, and significant wetland habitat.

Because the zone of riparian vegetation is a uniform distance of twenty five (25'), it may, in particular locations, include pasture land, land managed for agricultural crops, landscaped area of unvegetated areas which do not function as riparian vegetation. Upon request, the zoning administrator may perform a site-specific investigation to establish the extent of riparian vegetation in a particular location. Within this zone, riparian vegetation shall be maintained as described in (1) above.

However, regardless of the width of riparian vegetation, structures, parking lots, roads, fill and other development shall be set back a minimum distance of fifteen feet (15') from the shoreline of the Necanicum Estuary, and upstream areas of the Necanicum River and Neawanna Creek beyond the head of tide. Setbacks on shorelands adjacent to natural aquatic areas shall be a minimum of twenty five (25').

**Section 4.162 Additional Standards.** Development adjacent to freshwater wetlands, Class 1 and Class 2 streams, coastal lakes, estuarine conservation and estuarine natural zoned areas shall meet the following standards:

1. Temporary measures adequate to control erosion during construction shall be provided.
2. Whenever possible, natural storm water drainage will be employed and storm water will be dispersed from parking lots and streets prior to entering the estuary. Storm water outfalls shall be directed away from the marshes and tide flats.

**Section 4.163 Flood and Erosion Control Setbacks.** Development adjacent to the Necanicum River, Neawanna Creek, and Stanley Lake shall meet the following standards:

Structures, parking lots, roads, fills and other development except decks, walkways and bridges, shall be set back a minimum distance of fifteen feet (15') from the floodway boundary as determined pursuant to Ordinance 79-21.

**Section 4.164 Shoreland Habitat Setbacks.** Development adjacent to freshwater wetlands, coastal lakes, and Class 1 and Class 2 streams as identified pursuant to Section 3.142 shall meet the following standards:

Structures, parking lots, roads, fills, and other development, except decks, walkways and bridges shall be set back a minimum distance of fifteen feet (15') from the wetland, stream, or lake boundary.

In the case of Class 1 and Class 2 streams, setbacks will be measured from water's edge at normal winter flow level.

**Section 4.170 Maintenance of Public Access in Coastal Shorelands.** The City shall review under ORS 271.080-271.230, proposals for the vacation of public easements or rights-of-way which provide access to or along the Necanicum estuary or ocean. The City shall review under ORS 271.300-271.360, proposals for the sale, exchange or transfer of public ownerships which provide access to the Necanicum estuary or ocean. Existing public ownership rights-of-way and similar public easements which provide access to the Necanicum estuary or ocean shall be retained or replaced if they are sold, exchanged, or transferred. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

## **SECTION 4.200 GRADING AND EROSION CONTROL**

**Section 4.201 Purpose:** It is the objective of this ordinance to control activities that lead to soil erosion and sedimentation into watercourses, wetlands, riparian areas, public and private roadways caused by development activities, including clearing, grading, stripping, excavating, and filling of land.

### **Section 4.202 Grading and Erosion Control Plan**

#### 1. Grading and Erosion Control Plan Required

Except as otherwise provided in this ordinance, no person shall commence or perform any activities described in 4.202 a-c without receiving approval of a Grading and Erosion Control Plan by the City of Seaside Department Building and Code Enforcement.

- A. Any land disturbing activity (i.e. clearing, grading, stripping, excavation, fill, or any combination thereof) that will affect an area in excess of 1000 square feet;
- B. Any land disturbing activity that will affect an area in excess of 500 square feet if the activity is within 25 feet of a stream, watercourse, or wetland; or
- C. An excavation, fill, or any combination thereof that will exceed 20 cubic yards on a lot or parcel that is less than or equal to 5000 square feet or 50 cubic yards on a lot or parcel that is greater than 5000 square feet.

#### 2. Exceptions. The following activities are exempt from the requirements of Section 4.202.

- A. Cutting brush where ground cover will remain intact.
- B. Routine maintenance of road drainage ditches by City Public Works employees.
- C. Emergency measures taken to clear roadways or to save endangered property or real property.

#### 3. Submittal of Plan

Submittal of a Grading and Erosion Control Plan shall be made by the owner of the property or their agent to the City of Seaside Department Building and Code Enforcement on a site plan at a scale of one (1) inch equals ten (10) feet. Each plan shall bear the name(s), address(es), and phone number(s) of the owner or developer of the site. Each submittal shall include certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the submitted Grading and Erosion Control Plan. A Grading and Erosion Control Plan shall contain the following information:

- A. The location of the development site showing adjacent roads and streets and the development site boundaries.
- B. Indication of north direction
- C. Any bays, rivers, streams, wetlands, channels, ditches, or other water courses on and immediately adjacent to the development site.
- D. Areas where existing vegetative cover will be retained and measures to protect vegetation from damage.
- E. Accurate location, size and shape of proposed and existing structures.

- F. Direction of surface water flows.
- G. Indication of slope steepness of existing and proposed contours at intervals of two (2) feet.
- H. Location of construction access driveway(s) and designated vehicle parking area(s).
- I. Location of soil stockpiles.
- J. Type and location of temporary and permanent erosion control measures (slit fencing, straw bales, mulching, seeding, sodding, etc.).
- K. A schedule of construction operations and phasing.
- L. The owner of the development site and the person responsible for placement and maintenance of temporary and permanent erosion control measures.
- M. The general slope characteristics of the adjacent property.

The Plan shall be prepared in accordance with the requirements of this ordinance and the standards contained in Section 4.204 Design and Operation Standards and Requirements and "Soil Erosion Guidance" published by the Columbia River Estuary Study Taskforce (CREST). Any conflicting standards will be governed by standards set forth in Section 4.204 of this ordinance.

#### 4. Review and Approval

Each Grading and Erosion Control Plan shall be reviewed and acted upon according to the following procedures:

- A. The Seaside Department of Building and Code Enforcement will review each plan to determine its conformance with the provisions of this ordinance. After receipt of a complete application, the Seaside Department of Building and Code Enforcement shall, in writing:
  1. Approve the submittal if it is found to be in conformance with the provisions of this ordinance;
  2. Approve the submittal subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance; or
  3. Disapprove the submittal, indicating the appeal procedure or the procedure for submitting a revised erosion control plan.

### **4.204 Design and Operation Standards and Requirements**

#### 1. Applicability

All clearing, grading, stripping, excavating, and filling which is subject to the submittal requirements of this ordinance shall be subject to the applicable standards and requirements set forth in this Section 4.204.

#### 2. Development Site Erosion Control Requirements

- A. On-site erosion control measures, as specified by the following criteria, shall be constructed and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.
  1. Filter barriers (including filter fences, straw bales, or equivalent control measures) shall be constructed to control off-site runoff as specified in

referenced guidance. Vegetated strips with a minimum width of 25 feet may be used as an alternative only where runoff in sheet flow is expected.

- B. Disturbed areas shall be stabilized with temporary or permanent measures within 7 calendar days, or as otherwise required by the Building Inspector, following the end of active disturbance, or redisturbance, consistent with the following criteria:
    - 1. Appropriate temporary or permanent stabilization measures shall include seeding, mulching, sodding, and/or non-vegetative measures.
    - 2. Areas having slopes greater than 12 percent shall be stabilized with sod, mat, or blanket in combination with seeding, or equivalent.
  - C. Land disturbance activities in stream channels and riparian areas shall be avoided, unless the building inspector determines there are no other point of access. If disturbance activities are unavoidable, the following requirements shall be met:
    - 1. Construction vehicles shall be kept out of the stream channel to the maximum extent possible. Where construction crossings are necessary, temporary crossings shall be constructed of non-erosive material, such as rip-rap or gravel.
    - 2. The riparian area shall have erosion protection measures (Section 4.204) in place within 24 hours of disturbance (or up to 48 hours at the discretion of the Building Inspector).
    - 3. Appropriate local, state and federal permits are received prior to the activity.
  - D. Storm sewer inlets and culverts shall be protected by sediment traps or filter barriers meeting accepted design standards and specifications.
  - E. Soil storage piles containing more than 10 cubic yards of material shall not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. Filter barriers or impervious covering shall be installed to prevent or contain sediment runoff.
  - F. Each site shall have a graveled (or equivalent) entrance road(s) of sufficient length, depth and width to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private roadway shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment deposit area.
  - G. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.
  - H. Erosion control measures shall be designed and maintained to assure on-site activities do not impact adjacent property.
3. Guidance adopted by reference

The standards and specifications contained in "Erosion Control Guidance" cited in Section 4.204 is hereby incorporated into this Section 4.202 (4) and made a part

hereof by reference for the purpose of delineating procedures and methods of operation under erosion and sediment control plans approved under Section 4.202. In the event of conflict between provisions of said guidance and of this ordinance, the ordinance shall govern.

4. Maintenance of Control Measures

All soil erosion and sediment control measures necessary to meet the requirements of this ordinance shall be maintained in conformance with Section 4.204(2)(A)(1). The landowner or their agent shall inspect erosion control measures every 24 hours during storm or rain events to ensure the erosion control measures are functioning properly.

5. Inspection

The Seaside Department of Building and Code Enforcement shall make regular inspections to ascertain that erosion and sediment control measures as proposed on the development site erosion control plan have been implemented and are being effectively maintained.

6. Amendment of Plans

Amendments to an approved Grading and Erosion Control Plan shall be submitted to the Seaside Department of Building and Code Enforcement and shall be processed and approved or disapproved in the same manner as the original plan.

**Section 4.208 Definitions.** For the purposes of this Section 4.200, certain terms used herein are defined as set forth:

**CLEARING:** Any activity that removes vegetative ground cover.

**EROSION/SOIL EROSION:** 1) The wearing away of the land surface by running water, wind, ice, or other geologic agents, including such processes as gravitational creep. 2) Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

**EXCAVATION:** Any act by which organic matter, earth, sand, gravel, rock, or any other material are cut into, dug, uncovered, removed, displaced, relocated, or bulldozed.

**FILL:** Any act which earth, sand, gravel, rock, or any other material are deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location, including the conditions resulting therefrom.

**GRADING:** Excavation or fill or any combination thereof, including the conditions resulting from any excavation or fill.

**SEDIMENTATION:** The depositing of solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, or gravity.

**STRIPPING:** Any activity that removes the vegetative surface cover including tree removal, clearing, and storage or removal of top soil.

**WATERCOURSE:** Any established channel where water draining from a land area collects and flows on the ground surface.

**ARTICLE 5  
EXCEPTIONS**

**Section 5.005 AUTHORITY OVER EXCEPTIONS PROCEDURES**

Authority over rulings on requests for Sections 5.050 through 5.060 shall be granted to the Planning Director. At the discretion of the Planning Director, a request pursuant to Sections 5.050 through 5.060 may be referred to the Planning Commission for review and decision. In all cases referred to the Planning Commission, the Commission shall be subject to the provisions of this Ordinance which apply to the Planning Director, unless specified otherwise.

**Section 5.007 NOTIFICATION**

Notice of an application, and subsequent decision, regarding Sections 5.050-5.060 shall comply with the applicable requirements of Article 10.

**Section 5.010 LOT SIZE REQUIREMENTS, GENERAL EXCEPTIONS.**

If a lot, or the aggregate of contiguous lots or parcels platted prior to effective date of this Ordinance, has an area or dimension which does not meet the requirements of the Ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3,000 square feet, or with no frontage on a public street.

**Section 5.020 YARD REQUIREMENTS, GENERAL EXCEPTIONS**

The following exceptions to the yard requirements are established for a lot in any zone.

**Section 5.022 Required Front Yard.** The required front yard need not exceed the average depth of the abutting front yards within one hundred feet (100') of the proposed structure and the required front yard depth; provided the minimum depth shall not be less than eight feet (8').

**Section 5.023 Heavily Traveled Streets of Substandard Width.** To afford better light, air and vision on more heavily traveled streets of substandard width, to protect arterial streets, and to have the location of structures compatible with the need for the eventual widening of streets, a yard shall be provided abutting the streets and portions of streets hereinafter named, and shall be greater than required yard dimensions specified in the district. The minimum distance from the centerline to the front of any structure shall be as listed below, plus the required yard specified in the district.

1. Wahanna Road, south of Lewis and Clark Road and north of Broadway:  
Front and rear yards 20 feet; Side yards 15 feet east and west.

**Section 5.024 Property That Fronts on the Prom.** To maintain the unique character of certain areas of the city that front on the Prom facing the Pacific Ocean, and to establish a uniform building line for property that fronts on the Prom, the following set back lines shall be provided from the east right-of-way line of the Prom:

<u>LOCATION</u>	<u>SET-BACK</u>
1. South Prom from Avenue 'U' to Broadway	15 feet
2. North Prom from Broadway to 12th and from 15th to 22nd Avenues	15 feet

3. Ocean Avenue  
from 12th to 15th Avenues 15 feet

### **Section 5.030 BUILDING HEIGHT LIMITATIONS, GENERAL EXCEPTIONS**

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, and other similar objects not used for human occupancy, are not subject to the building height limitations of this Ordinance.

### **Section 5.040 PROJECTION FROM BUILDINGS**

Architectural features such as cornices, eaves, canopies, sunshades, gutters, flues; and steps, porches and decks greater than twenty nine inches (29") above finished grade may project up to thirty inches (30") into a required side yard or forty eight inches (48") into a required front or rear yard.

### **Section 5.050 TEMPORARY PERMITS**

Notwithstanding the limitations of use as established by this Ordinance in each of the several districts, the Planning Director may issue temporary permits.

1. Temporary permits shall be valid for a period of not more than one (1) year after issuance. They can only be renewed with Planning Director approval.
2. Such permits shall be issued for structures or uses which are of temporary nature, such as:
  - A. Storage of equipment during the building of roads, water and sewer systems, or developments.
  - B. Real estate office used for the sale of lots or housing subdivisions.
  - C. Temporary storage of structures or equipment.
  - D. Sheds used in conjunction with the building of a structure.
  - E. Temporary housing for a caretaker or security guard; or
  - F. Other uses of a temporary nature, when similar in nature to the items listed above.
  - G. Other uses of a temporary nature, when found to be consistent with the Zoning Ordinance and Comprehensive Plan, as well as, with other uses and activities in the area. Review of proposals pursuant to this subsection shall commence with the Planning Commission.
3. The Planning Commission or Planning Director may attach conditions deemed necessary in regard to the proposed use to carry out the intent of this Ordinance.

### **Section 5.060 SETBACK REDUCTION**

In cases where a pre-existing structure violates current setback standards and the owner proposes an addition or alteration that continues the encroachment without increasing the encroachment, and when the Fire Marshal certifies in writing that such addition or alteration will not increase the fire hazard to the adjoining properties, reduction of setback requirements without variance procedure may be approved by the Planning Director where the following criteria are met:

1. The reduction will not negatively impact adjacent property.
2. There is a valid design reason

3. The reduction will not block views
4. Clear Vision area will be maintained. (See Section 4.050.)
5. Setback reductions shall not apply to all setback requirements established to comply with Statewide Planning goals 7, 16, 17 or 18 to include requirements for geologic hazard, flood and erosion hazard, riparian vegetation, and significant wildlife protection.

### **Section 5.070 ZERO LOT LINE SETBACKS**

Side yard requirements do not apply a common property line established to divide duplexes in an R-2 zone or attached dwellings in an R-3 zone subject to the following standards:

1. The parent lot must conform to the minimum lot size requirements applicable in the zone prior to the division.
2. The structure meets the applicable building and related code requirements necessary to create the zero lot line.
3. Before completing a land division process, the property owner must establish covenant agreement for the subsequent units of land which indicate:
  - A. In case of destruction of one or more units, new construction must follow the same concept of construction as previously designated
  - B. Each owner shall carry fire and liability insurance on their portion of the building and the contiguous owner(s) must also be listed on the policy.
  - C. Provisions that will allow for the maintenance of the zero lot line wall, the roof and any common facilities.
  - D. Specify the procedures for the resolution of disputes.

*(Updated per Ordinance No. 2003-06)*

### **Section 5.100 OUTDOOR MERCHANDISING**

1. The purpose of this section is to ensure that certain commercial activities are carried out in a manner that is aesthetically compatible with adjacent uses, minimizes congestion in commercial areas, minimizes impact on pedestrian circulation and maintains open space areas designed for pedestrian use. The City Manager shall be responsible for implementing sections 2 and 4 below. The Planning Commission shall review all requests pursuant to section 3 below. Planning Commission review shall be subject to the public hearing procedures set forth in Article 10.
2. All uses in the C-1, C-2, C-3, C-4, R-C, R-R, M-1 and AD zones shall be conducted entirely within a completely enclosed building except that the outdoor storage, display, sale or rental of merchandise or services may be permitted where the standards of subsection 3 of this section are met. The following uses and activities, subject to applicable conditions, are exempt from this prohibition:
  - A. The sale of living plant materials
  - B. Outdoor seating in conjunction with a restaurant
  - C. Christmas tree sales lot
  - D. The dispensing of petroleum products at a service station
  - E. Sales of food items, arts and handicrafts by a nonprofit organization subject to subsection (4)(B) of this section

- F. Automatic teller machines
  - G. Telephone
  - H. Live entertainment and other outdoor performances, subject to subsection (4)(C) of this section
  - I. Rental of outdoor recreation equipment, to be used on or off site, subject to screening or buffering where required for avoidance of nuisance.
  - J. Automobile sales and rental lots
  - K. Heavy equipment sales and rental lots
  - L. Residential yard and garage sales
  - M. Newspaper vending machine
3. The outdoor storage, display, sale or rental of merchandise or services may be permitted where:
- A. The outdoor area in which the merchandise or service is stored, displayed, sold or rented is accessible only through a building entrance where such entrance is of similar height, construction and appearance to adjacent structures; or
  - B. The outdoor area is screened from a public street or adjacent property by sight obscuring vegetation at least six feet in height; or
  - C. The use is similar to the main use(s) of the site where the main use(s) is enclosed in a permanent structure that complies with applicable land use and building code requirements and:
    - 1. The outdoor storage, display, sale or rental of merchandise or services will be located on the same parcel as the main use; and
    - 2. The outdoor storage, display, sale or rental of merchandise or services does not utilize more than 15% of the area of the parcel on which the main use is located.
4. The following additional requirements are applicable to certain types of outdoor merchandising:
- A. Nonprofit organization sales. The sale is authorized by a site specific use permit granted by the city manager after finding that:
    - 1. The sale has the approval of the owner or lessee of the property on which it is to take place.
    - 2. The sale will be located in a manner that will not interfere with pedestrian or vehicular traffic.
    - 3. The sale will not interfere with the safe operation of adjacent businesses.
    - 4. The event shall not occur more than twice in a calendar year.
    - 5. The sale shall be for a specified period of time. The duration of the sale shall not exceed three days.
  - B. Parking lot/sidewalk sales where such events are limited to four per year and meet health and safety requirements applicable to the event. Such events shall

be for a specified period of time. The duration of the event shall not exceed three consecutive days.

- C. Live entertainment, outdoor performances or special events. The entertainment, outdoor performance or special event complies with the following:
    - 1. The event has the approval of the property owner or lessee of the property.
    - 2. The location of the entertainment will not interfere with pedestrian traffic or the operation of adjacent businesses.
    - 3. Where the entertainment is proposed to be amplified by electronic means, the location is appropriate.
    - 4. The hours proposed for the entertainment are appropriate to the location;  
and
    - 5. The entertainment will be for a specified period of time.
  - D. Garage and yard sales shall be regulated pursuant to the garage sale Ordinance No. 74-03.
- 5. All new uses, events, etc., shall comply with the requirements of Section 5.100. Existing uses, events, etc. shall comply within one year of adoption of Section 5.100.
  - 6. All new uses shall comply with all applicable State, Health, Fire Life Safety, Building Codes, and other applicable Seaside Ordinances.

## **ARTICLE 6 CONDITIONAL USES**

### **Section 6.010 PURPOSE**

In certain districts, conditional uses may be permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristic, or special characteristics of the area in which they are to be located, conditional uses require special considerations so they may be properly located with respect to the Comprehensive Plan and to the objectives of this Ordinance.

### **Section 6.020 PLANNING COMMISSION AUTHORITY**

The Planning Commission shall have the authority to approve, approve with conditions, or disapprove Conditional Use Permits in accordance with the standards and procedures set forth in Sections 6.030 through 6.140 and Section 3.210 Institutional Campus Zone.  
*(Updated per Ord. 2017-12)*

### **Section 6.025 ADMINISTRATIVE CONDITIONAL USE PERMITS**

The Planning Director shall have the authority to approve the following conditional uses provided they comply with their respective criteria:

1. Manufactured homes on individual lots subject to Section 4.135.
2. Bed & Breakfast establishments subject to Sections 6.135 and 6.136.
3. Vacation Rental Dwellings subject to Section 6.137.
4. Home Occupations subject to Sections 4.130, 4.131, 4.132, 4.133, and 4.134.

Following the above criteria will take the place of Sections 6.020 through 6.043.

### **Section 6.026 APPEAL PROCESS FOR ADMINISTRATIVE CONDITIONAL USE PERMITS**

An applicant may appeal the denial of an administrative conditional use permit by following the conditional use procedure of Sections 6.040 through 6.043.

### **Section 6.030 STANDARDS GOVERNING CONDITIONAL USES**

**Section 6.031 Alteration of an Existing Condition.** In permitting a new conditional use other than a needed housing type, or the alteration of an existing conditional use other than a needed housing type, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area of the city as a whole. These conditions may include the following:

1. Increasing the required lot size or yard dimension.
2. Limiting the height of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location and lighting of signs.

7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.

**Section 6.032 Alteration of Structure.** In the case of a use existing prior to the effective date of this Ordinance and classified in the Ordinance as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

**Section 6.033 Performance Bond.** The Planning Commission may require an applicant to furnish the City with a performance bond or such other form of assurance that the Planning Commission deems necessary to guarantee development in accordance with the standards established and conditions attached in granting a conditional use.

**Section 6.034 General Standards of This Ordinance.** In addition to the standards of the zone in which the conditional use is located, the general standards of this Ordinance and policies of the Comprehensive Plan, specific conditional uses shall meet the standards listed in Section 6.040 through 6.149.

#### **Section 6.040 CONDITIONAL USE PROCEDURE**

The following procedures shall be followed in applying for and acting on a conditional use:

**Section 6.041 Request for a Conditional Use.** A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City Planner using forms prescribed pursuant to Section 10.040. The Planning Commission may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties.

**Section 6.042 Public Hearing For Request For Conditional Use.** Before the Planning Commission may act on a request for a conditional use, it shall hold a public hearing.

**Section 6.043 After a Decision is Rendered.** Within five days after a decision has been rendered with reference to a request for a conditional use, the City Planner shall provide the applicant with written notice of the decision of the Planning Commission.

#### **Section 6.050 THE LIMIT ON A PERMIT FOR CONDITIONAL USE.**

Except for Institutional Master Plans and Institutional Development Plans approved pursuant to Section 3.210, authorization of a conditional use shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may, at its discretion, extend authorization for an additional six months upon request, provided such request is submitted in writing at least ten (10) days prior to expiration of the permit.

#### **Section 6.060 CHURCH, HOSPITAL, MEDICAL CLINIC, NURSING HOME, CONVALESCENT HOME, RETIREMENT HOME, and ASSISTED LIVING FACILITIES**

A church, hospital, nursing home, assisted living facility, medical clinic, convalescent home, or retirement home may be authorized as a conditional use after consideration of the following factors: sufficient area provided for the building, required yards, and off-street parking, (related structures and uses, such as a parochial school or parish house, are considered separate principal uses with additional lot area required); location of the site relative to the service area of the use; probable growth and growth needs; site location relative to land uses in the vicinity; and adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets. The proposed use or related buildings located in or abutting on a side or rear lot line of an EFU, R-1, R-2, or R-3 Zone shall be not less than fifteen

feet (15') from such side or rear lot line. Assisted Living Facilities shall comply with applicable State of Oregon regulations.

### **Section 6.070 SCHOOLS**

**Section 6.071 Nursery Schools.** Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence, at least four feet but not more than six feet high, shall separate the play area from abutting lots and from a street.

**Section 6.072 Elementary Schools.** Elementary schools shall provide a basic site area of five acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

**Section 6.073 Secondary Schools.** Secondary schools shall provide a basic site area of ten (10) acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

**Section 6.074 School Campuses.** School campuses with both elementary and secondary schools in the Institutional Campus (IC) zone shall have a basic site area of at least 30 acres and shall be subject to the provisions of Section 3.210 Institutional Campus Zone. The provisions of Section 6.072 through 6.073 shall not apply to school campus sites in the IC zone.

*(Updated per Ord. 2017-12)*

### **Section 6.080 PUBLIC UTILITY OR COMMUNICATION FACILITY**

In considering a conditional use application for such facilities as a utility substation, water storage tank, radio or television tower and/or transmitter, etc., the Planning Commission shall determine that the site is located so as to best serve the intended area with a minimum effect on surrounding property. As far as possible, towers, tanks, poles, overhead wires, pumping stations, and similar gear shall be located, designed and installed with suitable regard for aesthetic values. This includes fencing and landscaping, and in residential zones, all equipment storage on the site shall be within an enclosed building. In addition, the minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.

### **Section 6.085 PROFESSIONAL OFFICES**

Professional offices are allowed as a transitional use in the R-2, R-3 and R-M Zones. Conditions which must be met for these uses are:

1. Landscaping and screening adjoining residential uses.
2. A height limitation of one story for office space use.
3. Residential setbacks are required and are governed by the standards of the Zone in which they are located.
4. Lot coverage must be consistent with the Zones in which they are located.
5. Parking must be as specified in Section 4.100, and must be landscaped and screened when parking areas are adjoining residential uses.

### **Section 6.090 MANUFACTURED DWELLING PARK**

A Manufactured Dwelling Park may be permitted as a conditional use provided it meets the requirements of Chapter 446, "Oregon Revised Statutes" and the "Rules and Regulations Governing the Construction and Sanitary Operation of Traveler's Accommodations and Trailer Parks" adopted by the Oregon State Board of Health. In addition, the following minimum standards shall apply:

**Section 6.091 Minimum Area for a Manufactured Home.** The minimum area for a manufactured dwelling park shall be two acres.

**Section 6.092 Average Area for a Manufactured Home.** The average area of manufactured dwelling sites within the manufactured dwelling park shall be no less than 2,500 square feet, excluding roadways, recreation areas, and other accessory facilities. No manufactured dwelling site shall have an area less than 2,000 square feet.

**Section 6.093 Sight-Obscuring Fence.** A sight-obscuring fence, evergreen hedge or other evergreen planting maintained not less than six feet (6') high shall enclose the manufactured dwelling park on all sides except at points of ingress and egress and along public rights-of-way where it will not exceed three feet (3') in height. Section 4.050, Clear Vision Areas shall govern at street intersections.

**Section 6.094 Parking Space for a Manufactured Home.** A parking space shall be provided for each manufactured dwelling space on the site. In addition, guest parking spaces shall also be provided in every manufactured dwelling park within 200 feet of the manufactured dwelling spaces served, and at a ratio of one parking space for each dwelling space. Parking spaces shall have durable and dustless surfaces, be adequately maintained for all-weather use and shall be properly drained.

#### **Section 6.095 RECREATION VEHICLE PARKS AND CAMPGROUNDS**

Recreation vehicle parks and campgrounds may be permitted as a conditional use provided they are compatible with surrounding land use, environmental amenities are protected, and on and off-site congestion is avoided.

**Section 6.096 Minimum Lot Size.** The minimum lot size is one acre.

**Section 6.097 When Area Adjoins an "R" Zone.** When the area adjoins an "R" Zone, a site obscuring fence of six feet (6') shall be built and maintained along the property line.

#### **Section 6.100 COMMERCIAL AMUSEMENT ESTABLISHMENT**

A commercial amusement establishment may be authorized after consideration of the following factors:

**Section 6.101** Adequacy of access from principal street, together with the probable effect on traffic volumes of abutting and nearby streets.

**Section 6.102** Adequacy of off-street parking.

**Section 6.103** Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

#### **Section 6.110 MINING, QUARRYING OR OTHER EXTRACTIVE ACTIVITY**

**Section 6.111** Plans and specifications submitted to the Planning Commission for approval must contain sufficient information to allow the Commission to consider and set standards pertaining to the following:

1. The most appropriate use of the land.
2. Set-back from the property line.
3. The protection of pedestrians and vehicles through the use of fencing.
4. The prevention of collection and stagnation of water at all stages of the operation.
5. The rehabilitation of the operation.

**Section 6.112** Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which are injurious or substantially annoying to persons or other uses in the vicinity.

**Section 6.113** Open pit or sand and gravel excavating or processing shall not be permitted closer than fifty feet (50') to the boundary of an adjoining property line unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than thirty feet (30') to the right-of-way line of an existing or platted street or an existing public utility right-of-way.

**Section 6.114** Production from an open pit or the removal of sand and gravel shall not leave a slope exceeding one foot (1') horizontal for one foot (1') vertical.

**Section 6.115** An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.

**Section 6.116** A rock crusher, washer, or sorter shall not be located nearer than 500 feet to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a way and manner as to eliminate, as far as is practicable, noise, vibration or dust which is injurious or substantially annoying to persons living in the vicinity.

#### **Section 6.120 JUNK, WRECKING YARD, CONTRACTORS YARDS**

In considering a conditional use application for a junk or wrecking yard, the Planning Commission shall require that it be enclosed by a sight-obscuring fence not less than six feet high.

#### **Section 6.130 SIGNS**

In the case of a conditional use, the sign limitation of a zone may be exceeded to allow one indirectly illuminated sign or non-illuminated sign not more than six square feet in area on each side of a structure abutting a street.

#### **Section 6.135 BED & BREAKFAST ESTABLISHMENTS**

The following conditions shall apply to all bed and breakfast establishments in R-2, R-3 and R-C Zones, plus any other conditions the Planning Commission feels necessary in order to preserve the residential character of the neighborhood.

1. Maximum number of rental units shall be two (2), with a total occupancy of no more than five (5) persons.
2. Establishment shall be owner occupied.
3. One (1) off-street parking space shall be provided for each rental unit plus the two (2) spaces for the residential unit.
4. Annual fire inspection.
5. Signing is limited to a 1 1/2 square foot nameplate, non-illuminated.

**Section 6.136 Variance Procedure For Bed & Breakfast Establishments.** A variance for additional units may be considered if the following criteria are met:

1. Abutting property owners are in agreement.

2. House has architectural design that would accommodate the use without changing the character of the neighborhood.
3. Adequate approved parking is provided.
4. Building meets Fire & Life Safety Code with annual inspection required.

### **Section 6.137 VACATION RENTAL DWELLING (VRD)**

1. **Purpose.** The Vacation Rental Dwelling Permit is in recognition of the desire of many people to rent their property on a short term basis. These standards and procedures are in addition to City ordinances and Federal and State laws and regulations.
2. **Standards.** In all zones allowing Vacation Rental Dwellings, a permit shall be issued as an accessory use in accordance with the administrative conditional use provisions provided the applicant can demonstrate by written application that all of the following standards are met:
  - A. **Parking.** One 9' x 18' off-street space will be provided for each bedroom in the unit, but in no event shall fewer than two spaces be provided.
  - B. **Number of Occupants.** The maximum number of occupants cannot exceed three persons (over the age of three) per bedroom. The maximum occupancy, along with good neighbor rules, shall remain posted inside the front door in a conspicuous place. It is the owner's responsibility to ensure the renters are aware of these limitations.
 

The number of overnight renters or the maximum number of occupants may be reduced by the Code Enforcement Officer or Fire Marshal at the time of Inspection for valid code reasons.
  - C. **Residential yard areas.** Front, side, and rear yards must maintain a residential appearance by limiting off street parking within yard areas. At least 50% of each yard area which is not occupied by buildings must be landscaped in some fashion so that parking will not dominate the yard.
  - D. **Local responsible party.** A local responsible party that permanently resides within the county must be identified by the owner. The responsible party will serve as an initial contact person if there are questions regarding the operation of the VRD. The owner shall provide the telephone number of the local contact person to the City, and to the immediate neighbors within the notification area (within 100' of the subject property).
  - E. **Spatial distribution requirements.** Within the medium density residential (R-2) zones and high density residential (R-3) zones, not more than 20% of the properties within 100' of the subject property can be currently licensed for VRD use without Planning Commission review.
 

Failure to meet this standard will require a public hearing and review by the Planning Commission under the provisions of Subsection 5.
3. **Notice and Administrative Decision.** Upon submittal of a complete application, notice of the request shall be mailed to all property owners within 100 feet in accordance with Section 10.031 (2). The notice and final decision by the Planning

Director must comply with the provisions in Section 10.032 through Section 10.035 of the Ordinance.

4. **Appeals.** Within fifteen (15) days of the administrative decision, the decision may be appealed in accordance with the provisions in Section 10.037 and 10.040 of the Ordinance
  
5. **Planning Commission review.** The Planning Commission will review VRD's which do not conform with the provisions of Subsection 2.E., in accordance with the conditional use procedures in Section 6.30 through 6.50 of the Ordinance. The applicant must address the following criteria in addition to the standards in Subsection 2.A-D of this Section. A decision by the Commission to approve a VRD request may include conditions that would restrict the number of renters or total occupants in the VRD.
  - A. The use of the property as a VRD will be compatible with the surrounding land uses.
  - B. The VRD will not contribute to excessive parking congestion on site or along adjacent streets.
  
6. **Approval conditions.** All approval must include the following conditions:
  - A. Vacation rentals must comply with City ordinances regarding noise, smoke, dust, litter, odor, and solid waste collection. Weekly solid waste pick-up is required during all months.
  - B. Prior to issuance of a vacation rental dwelling permit, the building in question must be inspected and be in substantial compliance with the Uniform Housing Code.
  - C. It is the property owner's responsibility to assure that the vacation rental dwelling remains in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes, and Traveler's Accommodation Statutes, and with the Uniform Housing Code.
  - D. Vacation rental dwelling permits are personal in nature and accordingly are not transferable. Upon transfer of the property, the new owner, if he or she so desires, may apply for a new permit in accordance with this Section.
  - E. A City Business License is required and all transient room tax provisions apply to VRD's. The business license must be obtained prior to any rental of the property. Renewals must be made in January of the permit year. If the business license fee or the transient room tax payments are thirty (30) days past due, the VRD Permit will be revoked unless a written extension is granted by the Finance Director.
  - F. Upon receipt of two written complaints from two or more occupants of different residences who claim to be adversely affected by the use of the property as a vacation rental dwelling, or by notice from the City Code Compliance Officer that requirements or conditions of approval are not being met, the Planning Department will work with the parties involved to settle any conflicts. If the problems are not resolved, the permit will be reviewed by the Planning Commission as provided in Subsection 5 of this Section. Failure on the

applicant's part to meet the standards or conditions will result in denial of the application

7. **Prior Approvals.** Vacation rental dwellings approved under prior standards shall comply with the provisions of Section 6.137; 2B., 2D., & 6A. within one year of the amendments in this Section.

*(Amending Ordinance No.,2000-09, adopted 11-27-2000)*

8. **Complaints.** Any complaint procedures concerning violations of the VRD Provisions are in addition to the "Remedies" specified in Article 12 of the Zoning Ordinance.

#### **Section 6.140 PRIVATE SPORTS COMPLEX**

A private sports complex may be allowed in the R-1, R-2 or R-3 Zones after consideration of the following factors:

1. Adequacy of access from the principal street, together with the probable effect on traffic volumes of abutting and nearby streets.
2. Adequacy of building and site design provisions to maintain a reasonable minimum of noise from the building site.
3. Adequacy of screening, landscaping and buffering of adjoining residential uses.

#### **Section 6.141 Standards Include:**

1. Lot Size: Lot area shall be a minimum of 20,000 square feet. Average lot width shall be at least 100 feet at the building line.
2. Front Yard: A front yard shall be at least 25 feet.
3. Side Yard: A side yard shall be at least ten feet (10').
4. Rear Yard: A rear yard shall be at least twenty feet (20').
5. Height Restrictions: Maximum height of a structure shall be 35 feet.
6. Lot Coverage: Maximum area that may be covered by structures shall not exceed 35 percent of the total area of the lot.
7. Off-Street Parking: A plan is to be submitted showing parking space consistent with Section 4.104 of the Zoning Code.

#### **Section 6.142 STANDARDS FOR SELECTIVE HARVESTING OF TIMBER ON LANDS WITHIN THE URBAN GROWTH BOUNDARY IN THE COASTAL LAKE AND FRESHWATER WETLANDS ZONE.**

Consistent with the protection of natural values in coastal freshwater wetland areas, selective harvesting of forest products may be undertaken as provided by the following standards:

1. Any harvesting of timber shall be according to a timber removal plan approved with the Conditional Use Permit.
2. Selection of trees to harvest shall be done with consideration of retaining wetland values at the site.
3. Harvesting shall be accomplished with a minimum amount of disturbance to the wetlands. Methods of harvesting will be set out in the conditional use permit. Wetland drainage shall be prohibited.

### **Section 6.144 STANDARDS FOR TIME-SHARE PROJECTS**

1. Time-share units shall be appropriately buffered by the use of yards, landscaping, and fencing from adjoining properties.
2. Time-share units shall comply with State law regulating time-share units and condominiums by presenting proof of compliance by submitting the public report issued by the Real Estate Division of the State Department of Commerce and the by-laws and declaration of the homeowners association to the City.
3. No structure shall be utilized as a time-share unit unless all the units in the structure or particular phase of the development are used as time-share units for this purpose.

### **Section 6.145 STANDARDS FOR CONDITIONAL USES IN THE EFU ZONE**

1. Conditional uses in the EFU Zone shall be approved only upon a finding that the use will not:
  - A. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - B. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. An applicant for a conditional use may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

### **Section 6.150 ESTUARINE STANDARDS**

#### **Section 6.152 Boat Ramp.**

1. Boat ramps requiring fill or dredging shall be evaluated under fill or dredging requirements. (Fill or removal of 50 cubic yards or less do not require permits from the U.S. Army Corps of Engineers or the Division of State Lands). Necessary permits will be obtained.
2. Boat ramps shall be compatible with surrounding uses, such as natural areas or residential areas.

#### **Section 6.153 Dock/Moorage**

1. Community docks or moorages shall be given higher priority than private individual docks or moorages.
2. Where a private individual dock is proposed, the applicant must provide evidence that alternative moorage sites, such as nearby marinas, community docks or mooring buoys are not available, are impractical, or will not satisfy the need.
3. Evidence shall be provided by the applicant that the size of the dock or moorage is the minimum necessary to fulfill the purpose.
4. Covered or enclosed moorage shall not be allowed except in connection with a commercial or industrial use where such shelter is necessary for repair and maintenance of vessels and associated equipment, such as fishing nets, etc.
5. Open-pile piers or secured floats shall be used for dock construction. Fills in aquatic areas to create a dock or moorage are not permitted.

6. Piers and floats shall extend no further out into the water than is needed to affect navigational access. Conflicts with other water surface uses, such as fishing or recreational boating, shall be minimized.
7. Floats in tidally-influenced areas shall be located such that they do not rest on the bottom at low water.

#### **Section 6.153.5 Dredge Material Disposal**

1. Surface runoff from disposal sites shall be controlled to protect water quality and prevent sedimentation of adjacent water bodies, wetlands and drainage ways. Disposal runoff water must enter the waterway through an outfall at a location with adequate circulation and flushing. Underground springs and aquifers must be identified and protected.
2. Dikes shall be well constructed and large enough to encourage proper "ponding" and to prevent the return of solids into the waterway or estuary. Ponds should be designed to maintain at least one foot (1') of standing water at all times to further encourage proper settling. Weirs should have proper crest heights.
3. Land disposal sites that are not intended for immediate subsequent use as development locations, including sites which will be re-used for dredged material disposal, shall be revegetated as soon as disposal site conditions allow in order to retard wind and wave erosion and to restore the fish and wildlife habitat value of the site. Native plant species should be considered for revegetation of disposal areas. However, plant species and revegetation techniques approved by the Soil Conservation Service, the U.S. Army Corps of Engineers and other participating federal and state resource agencies are appropriate.
4. Dredged materials shall not be deposited in estuarine waters, freshwater lakes or freshwater wetlands unless part of an approved development fill. Where there is erosion occurring and biological productivity is low, beach nourishment may be considered as a means of disposal.

#### **Section 6.154 Fill.**

1. Fill shall be allowed only:
  - A. If required for navigation or other water-dependent uses that require an estuarine location, or a use specifically allowed in the applicable aquatic zone;
  - B. If a need i.e. a substantial public benefit is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
  - C. If no feasible alternative upland locations exist; and
  - D. If adverse impacts are minimized.
2. Where fills are permitted, the fill shall be the minimum necessary to accomplish the proposed use.
3. Fills shall be permitted only after it is established through environmental impact assessment that negative impacts on the following factors will be minimized:
  - A. Navigation.
  - B. Productive estuarine habitat.
  - C. Water circulation and sedimentation patterns.

- D. Water quality.
- E. Recreation activities.
- 4. Where existing public access is reduced, suitable public access as part of the development project shall be provided.
- 5. Aquatic areas shall not be used for sanitary landfills or the disposal of solid waste.
- 6. Fill shall be permitted only in conjunction with the following uses:
  - A. Maintenance of existing structures and facilities, including structures and facilities existing as of October 7, 1977, and structures and facilities allowed in aquatic zones;
  - B. Boat ramps or other high intensity water dependent recreational uses in Aquatic Conservation Zones;
  - C. Installation of bridge crossing support structures, pipelines, cables and utility crossings or communication facilities.
  - D. Installation of storm water or sanitary sewer outfalls in Aquatic Conservation Zones;
  - E. An approved active restoration or estuarine enhancement or mitigation project;
  - F. Temporary alterations.

**Section 6.155 Land Transportation Facilities**

- 1. Land Transportation facilities shall not be located in wetlands or aquatic areas except where bridge crossings on pilings are needed.
- 2. Highways, railroads and bridges should be designed and located to take advantage of the natural topography so as to cause minimum disruption of the shoreline area. Causeways across aquatic areas shall not be permitted.
- 3. The impacts of proposed rail or highway facilities on land use patterns and physical/visual access shall be evaluated.
- 4. Culverts shall be permitted only where bridges are not feasible, and shall be large enough to protect water quality, salinity regime and wildlife habitat.

**Section 6.156 Dredging.**

- 1. Dredging shall be allowed only:
  - A. If required for navigation or other water-dependent uses that require an estuarine location, or a use specifically allowed in the applicable aquatic zone;
  - B. If a need i.e. a substantial public benefit is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;
  - C. If no feasible alternative upland locations exist; and
  - D. If adverse impacts are minimized.
- 2. Dredging for on-site maintenance of existing structures and facilities shall be allowed only if:
  - A. The dredging is necessary to maintain proper operation of the facility;

- B. The dredging is confined to the geographic area of the existing facility and is the minimum amount necessary to meet the need.
3. Dredging shall be permitted only in conjunction with the following uses
    - A. Maintenance of existing structures and facilities, including uses and activities established prior to October 7, 1977, and uses allowed in the aquatic zone;
    - B. Boat ramps or other high intensity water dependent recreational uses in Aquatic Conservation Zones;
    - C. Installation of bridge crossing support structures, pipelines, cables and utility crossings or communication facilities;
    - D. Tidegate installation in existing functional dikes;
    - E. Installation of storm water or sanitary sewer outfalls in Aquatic Conservation Zones;
    - F. An approved active restoration or estuarine enhancement or mitigation project;
    - G. Temporary alterations;
    - H. Minor navigational improvements in Aquatic Conservation Zones.

#### **Section 6.157 Mitigation**

Mitigation for dredge or fill within estuarine waters or inter-tidal wetlands shall be required by the Director of the Division of State Lands under the provisions of ORS 541.605 to 541.665. The suitability of a mitigation proposal for a given project shall be determined by the Division of State Lands according to the procedure established in Administrative Rule 85-240 to 85-262 (Chapter 141).

#### **Section 6.158 Pilings**

1. Pilings for a use permitted in the estuary shall be approved only after the applicant has established that adverse impacts on navigation, estuarine habitat and processes, water circulation and sedimentation patterns, water quality and recreational activities are minimized.
2. The piling will meet all state and federal engineering standards.
3. Pilings shall be used in lieu of fill wherever the use is engineering feasible. The number of pilings shall be the minimum necessary to accomplish the proposed use.

#### **Section 6.159 Restoration/Resource Enhancement - Active.**

Conditional use application for active restoration/resource enhancement should be accompanied by an explanation of the purpose of the project and the resource(s) to be restored or enhanced. The project shall be allowed if consistent with the resource capabilities and purpose of the designation of the area and the other adjacent uses.

#### **Section 6.1595 Temporary Alterations**

1. Temporary alterations may be allowed only in conjunction with a use which is allowed in the Aquatic Natural or Aquatic Conservation Zone.
2. Temporary alterations may not be for more than three years, and the area must be restored to its original condition.

3. Short-term damage to resources must be consistent with the resource capabilities of the area.

### **Section 6.160 Shoreline Stabilization**

1. General Standards.
  - A. Preferred Methods: Proper management of existing streamside vegetation is the preferred method of stabilization, followed by planting of vegetation. Where vegetative protection is inappropriate (because of the high erosion rate, the use of the site, or other factors,) structural means, such as rip rap, may be used as a last resort.

In the placement of stabilization materials, factors to be considered include, but are not limited to: effects on bird and wildlife habitat, uses of lands and waters adjacent to the bank, effects on fishing areas, effects on aquatic habitat, relative effectiveness of the various structures, engineering feasibility, cost and erosion, flooding and sedimentation of adjacent areas.
  - B. Emergency repair to shoreline stabilization facilities is permitted, not withstanding the other regulations in these standards, subject to those standards imposed by the State of Oregon, Division of State Lands, and the U.S. Army Corps of Engineers.
  - C. Conditional use application for shoreline stabilization shall be based on a demonstration of need and consistency with the intent of the designation of the area and the resource capabilities of the area. Impacts shall be minimized.
2. Standards for Revegetation and Vegetation Management.
  - A. Plant species shall be selected to insure that they provide suitable stabilization and value for wildlife. Justification shall be presented as to the necessity and feasibility for use of a bank with a slope greater than 2:1 (horizontal to vertical). Trees, shrubs and grasses native to the area are generally preferred.
  - B. The area to be revegetated should be protected from excessive livestock grazing or other activities that would hinder plant growth.
4. Standards for Rip Rap.
  - A. Good engineering and construction practices shall be used in the placement of rip rap, with regard to slope, size, composition and quality of material, excavation of the toe trench, placement of gravel fill-blanket, and operation of equipment in the water. State and federal agency regulations should be consulted in this regard.
  - B. Rip rapped banks should be vegetated to improve bird and wildlife habitat, where feasible.
  - C. Shoreline protection measures shall not restrict existing public access to public shorelines.
  - D. Shoreline protection measures should be designed to minimize their impacts on the aesthetic qualities of the shoreline.
  - E. Bankline protection is not in itself a way to increase land surface area. Where severe erosion has occurred, fill may be used to obtain the desired bank slope and restore the previous bank line. Any extension of the bank line into traditional

aquatic areas shall be subject to the standards for fill. Disruption of tidal marsh, tidal flat and productive sub-tidal areas shall not be permitted.

- F. Construction of shoreline protection measures shall be coordinated with state and federal agencies and local interests to minimize the effects on aquatic resources and habitats. Relevant state and federal water quality standards shall be met. Stream channelization should be avoided.

#### **Section 6.161 Utilities.**

1. Overhead electrical or communications transmission lines shall be located so as not to unduly interfere with migratory bird flyways and significant habitat or residential waterfowl, birds of prey and other birds. In cases of serious conflict, utility facilities should be located underground.
2. Applications for a utility facility, including cable crossings, shall provide evidence as to why an aquatic site is needed, the alternative locations considered, and the relative impacts of each. Crossings shall avoid disrupting marsh areas wherever it is engineering feasible.
3. Utility facilities shall not be located on new fill land unless part of an otherwise approved project, and no other alternative exists.
4. Above ground utility facilities shall be designed to have the least adverse effect on visual and other aesthetic characteristics of the area.
5. Effluents from point-source discharges shall meet all applicable state and federal water and air quality standards. Monitoring shall be carried out so as to determine the on-going effects on the estuarine environment.
6. After installation or maintenance is completed, banks shall be replant with native species or otherwise protected against erosion. The pre-project bank line shall be maintained as closely as possible.
7. Storm water shall be directed into existing natural drainages whenever possible, and shall be dispersed into several locations so as to minimize the impact on the estuary. Special precautions shall be taken to ensure that contamination of the marsh by oil, sediment, or other pollutants does not occur. This may be through the use of holding ponds, wiers, dry wells, or other means. Storm water outfalls shall not be permitted in Aquatic Natural Zones.

#### **Section 6.170 Impact Assessment**

The purpose of this section is to provide an assessment process for development alterations which could potentially alter the estuarine ecosystem.

1. Impact Assessment Requirement.

An Impact Assessment, in accordance with the provisions of this section, shall be required for the following uses and activities in Aquatic Natural and Aquatic Conservation zones:

- A. Fill (either fill in excess of 50 cubic yards or fill of less than 50 cubic yards which requires a Section 10 or Section 404 permit from the U.S. Army Corps of Engineers.)

- B. Dredging (either dredging in excess of 50 cubic yards within a 12-month period or dredging of less than 50 cubic yards which requires a Section 10 or Section 404 permit from the U.S. Army Corps of Engineers.)
- C. Proposals for active restoration.
- D. Placement of in-water structures, such as pilings, docks or bridge crossing support structures.
- E. Riprap
- F. Water intake or outfall.

Monitoring of effluent discharge and application of pesticides and herbicides are the responsibility of the Department of Environmental Quality and the Oregon Department of Agriculture.

2. Use of Impact Assessment.

- A. Information contained in impact assessments shall be used in the evaluation of a use or activity during a Conditional Use Permit review procedure. The Impact Assessment shall be used to: (1) identify potential development alterations of significant estuarine fish and wildlife habitats, and disturbances of essential properties of the estuarine resource, (2) determine whether potential impacts can be avoided and minimized, and (3) to provide a factual base of information that will ensure that applicable standards are met.
- B. Where a use requires a resource capability determination, information in the Impact Assessment will be used to determine consistency of proposed uses and activities with the resource capability and purpose of the affected management area or zone. Resource capability analysis shall be based on the requirements of the information to be provided in the Impact Assessment Section.

3. Information to be Provided in the Impact Assessment..

Information compiled in the Impact Assessment may be drawn from available data and analysis contained in: "Necanicum Estuary Inventory", environmental impact statements, or environmental assessments prepared for previous projects in the vicinity of the present development proposal; or other published environmental and estuarine studies pertaining to the Necanicum River estuary. The Impact Assessment should apply available information to the following general areas of analysis. The City Manager may waive inapplicable items for any particular use or project.

- A. Aquatic life forms and habitat, including information on: habitat type and use (e.g., rearing, spawning, feeding/resting area migration route), species present, seasonable abundance, sediment type and characteristics, vegetation present. Type of alteration, (including information detailing the extent of alteration (e.g., area measurement, depths to which alteration will extend, volumes of materials removed and/or placed as fill), impacted species (including threatened or endangered species), life states and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.
- B. Shoreland life forms and habitat, including information on: habitat type and use, (e.g. feeding, resting, or watering areas, flyways), species present, seasonal abundance, soil types and characteristics, vegetation present. Type of

- alteration, including information detailing the extent of alteration, (e.g. area measurement, extent of grading and excavation, removal of riparian vegetation), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.
- C. Water quality, including information on: increases in sedimentation and turbidity, decreases in dissolved oxygen concentration, changes in biological and chemical oxygen demand, contaminated sediments, alteration of salinity regime, disruption of naturally occurring water temperatures, changes due to reduction, diversion or impoundment of water.
  - D. Hydraulic characteristics, including information on: changes in water circulation patterns, shoaling patterns, potential for erosion or accretion in adjacent areas, changes in the flood plain, decreases in flushing capacity, or decreases in rate of water flow from reduction or diversion or impoundment of water sources.
  - E. Air quality, including information on: quantities of emissions or particulates, expected inorganic and organic airborne pollutants.
  - F. The impact of the proposed project on navigation and public access to shoreline and aquatic areas.
  - G. Demonstration that the public need and gain will warrant such modifications or loss.
  - H. Demonstration that non-water dependent uses will not preempt existing or future water dependent utilization of the area.
  - I. Determination of the potential cumulative impact of the proposed development, including alteration of adjacent significant estuarine fish and wildlife habitat and disturbance of essential properties of the estuarine resource.
  - J. Determination of methods for accommodation of the proposed development alteration, based on items (a) through (j) above, in order to minimize preventable adverse impacts. Determination of need for mitigation.
4. Impact Assessment Findings. Resulting from the analysis of the information presented in the Impact Assessment, one of the following findings shall be concluded:
- A. The proposed uses and activities are in conformance with all Comprehensive Plan policies and standards and do not represent a potential degradation or reduction of significant fish and wildlife habitats and essential properties of the estuarine resource. Where an impact assessment is required for a resource capability determination, the proposed uses are consistent with the resource capability and purpose of the affected management area or zone
  - B. The proposed uses and activities are in conformance with all Comprehensive Plan policies and standards, but represent a potential degradation or reduction of significant fish and wildlife habitats and essential properties of the estuarine resource. The Impact Assessment identifies reasonable alternatives to proposed actions that will eliminate, or minimize to an acceptable level, expected adverse environmental impacts. Where an Impact Assessment is required for a resource capability termination, the adverse environmental impacts have been minimized to be consistent with the resource capability of the management area or zone. The proposed uses and activities may be accommodated and found to

be consistent with resource capabilities and meet the purposes of the management area or zone.

- C. The proposed uses and activities are not in conformance with all Comprehensive Plan policies and standards. The Impact Assessment and analysis indicate that unacceptable loss will result from the proposed development alteration. The proposed uses and activities represent irreversible changes and actions, and unacceptable degradation or reduction of significant estuarine fish and wildlife habitats and essential properties of the estuarine resource will result; or, that the adverse consequences of the proposed uses and activities, while unpredictable and not precisely known, would result in irreversible trends or changes in estuarine resource properties and functions.

### **Section 6.180 Resource Capability Determination.**

1. Purpose. Certain uses and activities in estuarine zones are allowed only if determined to meet the resource capability and purpose of the zone in which the use or activity occurs. The purpose of this section is to establish a procedure for making a resource capability determination.
2. Definition of Resource Capability.
  - A. Aquatic Natural Zone: A use or activity is consistent with the resource capabilities of the Aquatic Natural Zone when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant, or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.
  - B. Aquatic Conservation Zone A use or activity is consistent with the resource capabilities of the Aquatic Conservation Zone when either the impacts of the use on estuarine species, habitats, biological productivity, and water quality are not significant, or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.
3. Resource Capability Procedure. In order to determine whether a use activity is consistent with the resource capability and purpose of the zone for which the use or activity is proposed, the following procedure is required:
  - A. Identification of the zone and area in which the activity is proposed, and the resources in the area.
  - B. Identification of adverse impacts and the proposed use or activity of the resources identified in (a) above.
  - C. Determination of whether the resources can continue to achieve the purpose of the zone in which the use or activity is proposed.
5. Identification of Resources and Impacts. The applicant for a proposed use or activity in which a resource capability determination must be made shall submit the following:
  - A. Information on resources present in zone in which the use or activity is proposed;

- B. Impact assessment as specified in Section 6.170, Impact Assessment Procedure. (Federal Environmental Impact Statements or Impact Assessments may be substituted if available at the time of the permit request.)

If in the course of review, additional information is required to satisfy the provisions of this ordinance; notification shall be made to the applicant outlining the additional information needed and the reason. Although the applicant shall be responsible for providing all necessary information, the City Manager will assist the applicant in identifying inventory sources and information. Sources which can be used to identify resources include:

"Necanicum Estuary Inventory", environmental impact statements for project in same area, or other published studies concerning the Necanicum Estuary. Identification of resources shall include both environmental (e.g. aquatic life and habitat present, benthic populations, migration routes and social and economic factors, navigation channels, public access facilities.

5. Resource Capability Administrative Provisions. A resource capability determination for a use or activity identified in this ordinance as a Conditional Use shall be made in accordance with the conditional use procedure set forth in Article 6.

Public notice of development proposals which require determination of parties. State and Federal resource agencies with mandates and authorities for planning permit issuance and resource decision making, including the following, will be notified: Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Army Corps of Engineers.

### **Section 6.250 SIMILAR USE**

The Similar Use process is intended to only allow those uses or activities that are similar to uses or activities specifically listed in the zone. This process is not intended as a means of bypassing the text amendment process when such process is appropriate nor is it intended to allow uses or activities that are not compatible with the Purpose of the zone. A similar use must comply with the following:

1. The proposed use or activity is similar in nature to a specific use or activity listed in the zone.
2. The impact of the proposed use or activity is not greater than what would likely be created by the specific use for which the proposed use or activity is similar.
3. The proposed use is consistent with the Purpose statement of the zone.

The reviewing body may impose conditions deemed necessary to assure the use or activity complies with the purpose of the zone and is compatible with adjacent uses and activities.

## **ARTICLE 7 VARIANCES**

### **Section 7.010 PURPOSE**

In certain instances, the ordinary application of the Ordinance will produce hardship cases. Typical examples are where topography or lot shape make it impossible to comply with normal front, side, or back yard setback requirements. In such cases, where the property owner can demonstrate the situation to be unique and that by complying with the Ordinances the owner cannot make reasonable use of the property, a variance can be granted to help alleviate the hardship. The granting of a variance however, cannot alter the use of the property as specified in the Ordinance, nor can the property owner be granted any special privileges which give added advantage over neighbors.

### **Section 7.020 AUTHORIZATION TO GRANT OR DENY VARIANCES**

The Planning Director 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. In granting a variance, the Planning Director may attach conditions and safeguards which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this Ordinance and the Comprehensive Plan. The Planning Director may also choose to refer any request for a variance to the Planning Commission for hearing. In all cases referred to the Planning Commission, the Commission shall be subject to the provisions of this Ordinance which apply to the Planning Director, unless specified otherwise.

### **Section 7.030 CIRCUMSTANCES FOR GRANTING VARIANCE**

A variance from the terms of this Ordinance shall not be granted by the Planning Director unless and until all of the standards in Section 7.031 and Section 7.032 are met.

**Section 7.031 Written Application.** The property owner must demonstrate by written application that all of the following circumstances exist:

1. The manner in which 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. How literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant, and
4. Evidence that granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for issuance of a variance.

**Section 7.032 The Planning Director shall make all the following findings:**

1. That the requirements of Section 7.031 have been met by the applicant for a variance.
2. That the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance which will make possible the reasonable use of the land, building or structure, and
3. That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and of the Comprehensive Plan and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

#### **Section 7.040 VARIANCE PROCEDURE**

The following procedures shall be followed in applying for and acting on a variance:

**Section 7.041 Request for Variance.** A property owner may initiate a request for variance by filing an application with the City Planner, using form prescribed pursuant to Section 10.040. 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 Director may request other drawings or materials

essential to an understanding of the variance request.

**Section 7.042 Notice of Variance Request.** Notice of the variance request, and subsequent decision, shall comply with the applicable requirements of Article 10. Before the Planning Director may decide on a request for a variance, comments from the Director of Building and Code Enforcement, Fire Chief, and other affected City Departments shall be solicited and considered.

#### **Section 7.050 THE LIMIT ON A PERMIT FOR A VARIANCE**

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the Planning Director may, in its discretion, extend authorization for an additional six months upon request.

## **ARTICLE 8 NONCONFORMING USES**

### **Section 8.010 PURPOSE**

At the time a Zoning Ordinance is adopted or amended, certain uses, structures or lots which existed prior to the adoption or amendment will not conform to new regulations of the zone in which it is located. These are known as nonconforming uses, nonconforming structures and nonconforming lots, respectively. In order to feasibly adopt the Zoning Ordinance and so as not to cause undue economic hardship to owners of nonconforming uses, structures or lots, they are allowed to continue under or to be utilized under special conditions as outlined in the sections below. The following sections are not eligible for relief or modification through a variance or other procedure. Review of requests pursuant to Article 8 shall be consistent with the requirements of Article 10.

### **Section 8.020 CONTINUATION, ENLARGEMENT, OR RELOCATION OF A NONCONFORMING USE**

A use allowed prior to the adoption of Ordinance 83-10 but which is no longer permitted in the zone in which it is located may continue after it becomes nonconforming so long as it complies with all the following requirements:

1. A nonconforming use shall not be enlarged or extended to occupy a greater portion of the lot, parcel or structure except as follows:

In case of practical difficulty and unnecessary hardship, the Planning Commission may grant the enlargement or expansion of a nonconforming use up to:

25% in floor area where the use occurs within a structure where the use and structure existed on the effective date of this ordinance or,

10% in land area where the use occurs outside of a structure and where the use existed on the effective date of this ordinance.

2. Except as provided in one (1) above, a nonconforming use shall not be moved to any other portion of a lot, parcel or building.

### **Section 8.030 DISCONTINUANCE OF NONCONFORMING USE**

If a nonconforming use is discontinued for a period of twelve months, subsequent uses of the lot, parcel or structure shall conform to this Ordinance.

### **Section 8.035 MAINTENANCE OF A NONCONFORMING USE**

A nonconforming use shall be maintained in reasonable repair as long as such repair is in accordance with rules and regulations pursuant to applicable building, structural, plumbing, electrical and other similar city, state and federal laws.

### **Section 8.040 IMPROVEMENT OF CERTAIN NONCONFORMING USES**

A use which is nonconforming with respect to provision for screening, shall provide screening within a period of five years from the effective date of this Ordinance.

### **Section 8.050 CHANGE OF A NONCONFORMING STRUCTURE**

If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.

### **Section 8.060 DESTRUCTION OF A NONCONFORMING STRUCTURE OR USE**

1. If a nonconforming use and/or structure is damaged or destroyed by any cause, a future use and/or structure shall conform to this Ordinance unless it is replaced or reestablished in accordance with the following provisions.
  - A. The use and/or structure may be reconstructed in the same manner and to the extent (e.g. configuration, size, height, occupancy) that it existed prior to the damage or destruction if the reconstruction begins within twelve (12) months. As with any reconstruction, the work must comply with applicable building and fire life safety codes; or,
  - B. The use and/or structure may be modified in an effort to more closely conform to the development standards and/or use provision in the ordinance if the Planning Commission approves a conditional use permit for the proposed modification. The conditional use must be applied for within 6 months from the date of the damage or destruction and the reconstruction must be completed within a time frame established by the Planning Commission. *(ORD. 2001-14, effective 12-12-2001)*
2. *Deleted per ORD. No. 2001-14, effective 12-12-2001*

### **Section 8.100 NONCONFORMING STRUCTURE**

Except as otherwise provided in Article 8 and Article 5 of the Ordinance, a nonconforming structure may be altered, enlarged, expanded or extended only where such action does not create new nonconformances or where such action does not continue or increase the existing nonconformance(s). For purposes of this section, exterior construction in any direction (horizontal, vertical, etc.) must comply with the requirements of the zone for which the structure is located. *(ORD. No. 99-02)*

### **Section 8.110 ENLARGEMENT OR EXPANSION OF A NONCONFORMING STRUCTURE**

In case of practical difficulty and unnecessary hardship, the Planning Commission may grant enlargement or expansion of a lawfully existing nonconforming structure up to 25% in lot coverage as follows:

1. The structure was existing at its current location as of the effective date of Ordinance 83-10.
2. The enlargement or expansion is at least 10 feet from any structures located on the adjacent lots or parcels.
3. The required clear vision areas for street corner areas of the lot or parcel are not obstructed. *(ORD. No. 99-02)*

### **Section 8.115 FLOOR AREA ENLARGEMENT OR EXPANSION OF A NONCONFORMING STRUCTURE.**

In cases where a floor area increase would not further deviate from the lot coverage provisions in the applicable zoning district, an application to enlargement or expand the floor area of the structure may be approved by the Planning Commission in accordance with provisions in Section 10.060 - 10.080 of the Ordinance. The Planning Commission's decision must be based on findings which support the following criteria:

1. With the exception of any expansion authorized under Section 8.110, the structure existed at its current location when Ordinance 83-10 took effect.

2. The enlargement or expansion will not cause adverse physical effects to the surrounding properties.
3. The floor area will not be increased by more than 50%. (*ORD. No. 99-02*)

**Section 8.120 DECREASE OF A NONCONFORMING STRUCTURE**

A nonconforming structure may be altered where the Planning Commission determines the structure will be more conforming than the existing structure and more compatible with uses and structures on the subject lot or parcel and adjoining lots or parcels.

**Section 8.130 MAINTENANCE OF A NONCONFORMING STRUCTURE**

A nonconforming structure shall be maintained in accordance with rules and regulations pursuant to applicable building, structural, plumbing, electrical and other similar city, state and federal laws.

**Section 8.140** *Deleted per ORD. No. 2001-14, effective 12-12-2001*

**Section 8.150 COMPLETION OF A NONCONFORMING STRUCTURE**

Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to effective date of this Ordinance, provided the building, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the building permit is issued.

**Section 8.160 NONCONFORMING USE AND STRUCTURE**

In the event that both use and structure are nonconforming at a site, replacement, alteration, expansion, maintenance, continuation, change, etc. of the use and structure shall only occur pursuant to all applicable sections of Article 8.

**Section 8.170 NONCONFORMING SIGN**

A nonconforming sign shall not be altered or extended except to make it comply with the requirements of this Ordinance and the Sign Ordinance.

## **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, the Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Planner using forms prescribed pursuant to Section 10.040.

### **Section 9.020 PUBLIC HEARINGS ON AMENDMENTS**

The Planning Commission shall conduct a public hearing on the proposed amendment its earliest practicable meeting after the amendment is proposed and shall within forty (40) days after the hearing, recommend to the City Council approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council may hold a public hearing on the proposed amendment.

### **Section 9.030 MAINTENANCE OF RECORDS**

The City Auditor shall maintain records of amendments to the text and Zoning Map of the Ordinance.

### **Section 9.040 LIMITATION OF RE-APPLICATION**

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 year period immediately following a previous denial of such a 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.

**ARTICLE 10  
ADMINISTRATIVE PROVISIONS**

**Section 10.010 ADMINISTRATION**

The City Manager shall have the power and duty to enforce the provisions of this Ordinance. An appeal from a ruling by the City Manager regarding a requirement of the Ordinance may be made to the Planning Commission within fifteen (15) days after the City Manager has rendered his decision.

**Section 10.020 BUILDING PERMITS**

No permit shall be issued by the Building Official for the construction, reconstruction, alteration or change of use of a structure or lot that does not conform to the requirements of this Ordinance.

**Section 10.030 NOTICE OF PENDING PLANNING DIRECTOR DECISION**

**Section 10.031 Notice of Decision by Planning Director.** When the Planning Director will render a decision for a variance, temporary use or setback reduction, notice shall be given in the following manner:

1. Notice of application and pending decision shall be published in a newspaper of general circulation in the City of Seaside at least twenty (20) days prior to a decision by the Planning Director.
2. Notice of quasi-judicial land use actions shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll which is located within 100 feet of the property which is the subject of the notice, or within 500 feet of property which is the subject of the notice where the subject property is within a farm or forest zone.
3. Notice of pending director decision on quasi-judicial land use actions required under Section 10.056 shall be mailed at least;
  - A. Twenty days before the evidentiary hearing; or
  - B. If two or more evidentiary hearings are allowed, ten (10) days before the evidentiary hearing.

**Section 10.032 Notice of Pending Decision.** Notice of a pending Planning Director decision on a quasi-judicial land use action shall include the following information:

1. The name of the applicant.
2. A date and time for which final written comments must be received prior to a decision by the Planning Director.
3. The statement that written comments received after the date required by Section 10.032 (2) will not be considered timely for purposes of consideration by the Planning Director. The statement shall also indicate that failure to raise an issue in writing or failure to provide sufficient specificity to allow the decision maker an opportunity to respond to the issue precludes appeal to the Planning Commission based on that issue.
4. A description of the location of the property for which a permit or other land use action is pending, including the street address and subdivision lot and block designation, or tax lot number.

5. A concise description of the proposed development action.
6. A reference to the applicable comprehensive plan and zoning criteria which apply to the proposal.
7. A statement describing where the complete application, criteria and relevant information is available for review, and how written comments be submitted.
8. The name and phone number of a local government representative to contact for more information.
9. A statement that a copy of the application, and all documents relied upon by the applicant, and applicable criteria are available inspection at no cost, and that copies can be provided at reasonable cost.
10. A general explanation of the requirements for submission of testimony and the procedure for this type of decision.

**Section 10.033 Failure to Receive Notice.** Failure to receive the notice provided pursuant to Sections 10.031 and 10.032 above, shall not impair the validity of the decision.

**Section 10.035 Notice of Planning Director Decision.** Within ten days after a decision has been rendered for a request pursuant to Section 10.030-10.033, the Planning Director shall provide the applicant with notice of the decision. Notice shall also be sent to all property owners who received notice of the original request and to those who submitted timely comments. This notice shall also contain information concerning the procedure for appeal of the decision to the Planning Commission.

**Section 10.037 Appeal From Ruling Of Planning Director.** Any action or ruling of the Planning Director regarding a variance, temporary use or setback reduction may be appealed to the Planning Commission within 15 (fifteen) days after Notice of Planning Director Decision is provided pursuant to Section 10.035. Written notice of the appeal shall be filed with the City Auditor. If the appeal is not filed within the fifteen (15) day period, the decision of the Planning Director shall be final. If the appeal is filed, the Planning Commission shall receive a report and recommendation from the Planning Director and shall hold a public hearing on the appeal.

Upon filing an appeal of a decision made by the Planning Director, the appellant shall submit the necessary forms and supporting documentation. Should the Planning Commission rule in favor of the appeal and overturn the Planning Director's decision the City shall refund the filing fee to the appellant.

**Section 10.040 FORM OF PETITIONS AND APPLICATIONS AND APPEALS.**

All petitions, applications and appeals provided for in this Ordinance shall be made on forms prescribed by the City. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the sizes and locations on the lot of the buildings and other structures, existing and proposed, the existing and intended use of each building, structure, and/or part thereof, the number of families, if any, to be accommodated thereon, and such other information as is needed to determine conformance with this Ordinance.

If proposed development requires more than one application for a permit or zone change request, the applicant shall apply for all necessary applications at the same time. The reviewing body shall consolidate its review of all necessary applications. This consolidated application procedure shall be subject to the requirements of Section 10.080, Final Application for Permit or Zone Change Request. At the discretion of the applicable reviewing body, multiple

applications which are not submitted concurrently may be denied on a procedural basis unless sequential submission is deemed unavoidable by the reviewing body.

### **Section 10.050 FILING FEES**

The fees established by resolution of the Seaside City Council shall be paid to the City of Seaside upon filing an application. (ORD. No. 99-02)

### **Section 10.060 NOTICE OF PUBLIC HEARING**

**Section 10.061 Notice of Public Hearing.** When either the Planning Commission or City Council elects or is required to hold a public hearing, notice of public hearing shall be given in the following manner:

1. Notice of public hearing shall be published in a newspaper of general circulation in the City of Seaside at least ten (10) days prior to the date of hearing.
2. Notice of public hearings on quasi-judicial land use actions shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll which is located within 100 feet of the property which is the subject of the notice, or within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
3. Notice of public hearings on quasi-judicial land use actions required under Section 10.061(b) above shall be mailed at least;
  - A. Twenty days before the evidentiary hearing; or
  - B. If two or more evidentiary hearings are allowed, ten (10) days before the evidentiary hearing.
4. Each notice of a public hearing on a zone change for property which includes all or part of a mobile home park, shall be sent by first class mail to each existing mailing address for tenants of the mobile home park, at least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on the application. The City may require the applicant for the zone change to pay the costs of the notice.

**Section 10.062 Notice of Public Hearing on a Quasi-Judicial Land Use Action.** Notice of a public hearing on a quasi-judicial land use action shall include the following information:

1. The name of the applicant.
2. The date, time, and location of the hearing.
3. A description of the location of the property for which a permit or other land use action is pending, including the street address and the subdivision lot and block designation, or tax lot number. (This information is required only for quasi-judicial actions).
4. A concise description of the proposed development action.
5. A reference to the applicable comprehensive plan and zoning ordinance criteria which apply to the proposal.
6. A statement that a failure to raise an issue in person or by letter or failure to provide sufficient specificity to allow the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
7. A statement describing where the complete application, criteria and other relevant information is available for review, and how written comments may be submitted.

8. The name and phone number of a local government representative to contact for more information.
9. A statement that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost, and that copies can be provided at reasonable cost.
10. A statement that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing, and that copies can be provided at reasonable cost.
11. A general explanation of the requirements for submission of testimony and the procedure for conduct hearings.

**Section 10.063 Failure to Receive Notice.** Failure to receive the notice provided pursuant to Sections 10.061 and 10.062 above, shall not impair the validity of the hearing.

**Section 10.064 To Recess A Hearing.** The Planning Commission or City Council may recess 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 recessing, the time and date when the hearing is to be resumed shall be announced.

**Section 10.066 Notice Of Planning Commission Or City Council Decision**

For decisions rendered by the Planning Commission or City Council, the Planning Director shall provide the applicant/appellant with notice of the decision. Notice of the decision shall also be sent to all property owners who received notice of the original request and to those who submitted timely comments. This notice shall also contain information concerning the procedure for appeal of the decision. The notice shall be sent within 10 days of the date of the Planning Commission or City Council decision.

**Section 10.068 Appeal From Ruling Of Planning Commission For Decisions Within The City Limits**

Any action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the City Council within fifteen (15) days after Notice of Decision is provided pursuant to Section 10.066. Written notice of the appeal shall be filed with the City Auditor. If the appeal is not filed within the fifteen (15) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation on it from the Planning Commission and shall hold a public hearing on the appeal.

**Section 10.069 Appeal From Planning Commission For Decisions Within The Urban Growth Boundary Area**

Any action or ruling of the Seaside Planning Commission pursuant to this Ordinance may be appealed to the County Board of Commissioners within fifteen (15) days after Notice of Decision is provided pursuant to Section 10.066. Written notice of the appeal shall be filed with the City Auditor. If the appeal is not filed within the fifteen (15) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the County Board of Commissioners shall receive a report and recommendation on it from the Seaside Planning Commission and shall hold a public hearing on the appeal.

**Section 10.070 PUBLIC HEARING PROCEDURES AND REQUIREMENTS**

**Section 10.071 Public Hearings.** Public hearings conducted under this Ordinance shall follow the procedures and requirements of this section.

**Section 10.072 Providing an Impartial Review.** Public hearings shall provide an impartial review as free from potential conflicts of interest and pre-hearing ex-parte contacts as possible. No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

1. Any of the following have a direct or substantial financial interest in the proposal:
  - A. The hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, or mother-in law;
  - B. Any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

**Section 10.073 Recording the Substance of any Written or Oral Communication.** Hearing body members shall place on the record the substance of any written or oral ex-parte communications concerning a decision or action which occurs after the communication was made. Parties shall be given the right to rebut the substance of the communication. If such contacts have impaired their impartiality or their ability to vote on the matter, they shall so state and abstain therefrom.

**Section 10.074 Beginning Of Public Hearing.** At the beginning of a public hearing, the following shall be addressed:

1. Any abstentions or disqualifications of hearing body members shall be determined, based on conflict of interest, personal bias or ex-parte contacts.
2. For public hearings on land use actions, a statement shall be made by the person presiding that:
  - A. Describes the applicable substantive criteria which will be used to review the land use action;
  - B. Testimony at the hearing must be directed towards the criteria which will be used to review the land use action or other criteria in the plan or land use regulations which a party believes to apply to the land use action;
  - C. Failure to raise an issue with sufficient specificity to afford the decision makers and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

**Section 10.075 Continuation Of A Public Hearing.** The Planning Commission or City Council may continue a hearing in order to obtain additional information or to serve further notice upon other property owners it decides may be interested in the proposal being considered. Upon continuing a hearing, the time and date when the hearing is to be resumed shall be announced.

**Section 10.076 Record Remaining Open.** Unless there is a continuance, if a participant so requests before the conclusion of the first evidentiary hearing on a land use action, the record shall remain open for at least seven days after the hearing. Whenever the record of a land use hearing 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 matter at issue. This extension of time shall not be counted as part of the 120 day time limit in Section 10.080.

**Section 10.077 Staff Reports Used At Public Hearings.** Any staff report used at a public hearing shall be available at least seven days prior to the hearing. If additional documents or

evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. This continuance period shall not be counted as part of the 120 day time limit in Section 10.080.

**Section 10.080 FINAL ACTION ON APPLICATION FOR PERMIT OR ZONE CHANGE REQUEST.**

The following section shall apply to all applications for permits or zone change requests, except those which involve an amendment to the comprehensive plan or zoning ordinance, or the adoption of a new land use regulation.

1. The city shall take final action on an application for a permit or zone change request, including resolution of all local appeals, within 120 days from the date the application is deemed complete. This 120-day period may be extended for a reasonable period of time at the request of the applicant. If the applicant chooses to request a continuance during the decision process, or during an appeal, they shall agree in writing to waive the right to completion of the decision or appeal process within the 120 days prescribed above.
2. If an application for a permit or zone change is incomplete, the city shall notify the applicant of the additional information required within 30 days of the receipt of the application. The applicant shall be given an opportunity to submit the additional information. The application shall be deemed complete upon receipt of the additional information required. Refusal by the applicant to submit the required additional information shall deem the application complete on the 31st day after the governing body first received the application.
3. All documents or evidence provided by the applicant shall be submitted to the city and be made available to the public at the time the notice of public hearing required by Section 10.061 is provided.
4. If the application was complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, the city's approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

**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 Ordinance, 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.

**Section 11.030 REPEAL**

Ordinance Number 80-19 and all amendments thereto are hereby repealed, with the provision that violations of those Ordinances and all amendments thereto shall remain violations to the extent that the matters in violation do not conform to the provisions 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 \$150.00, or both. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.

### **Section 12.020 ALTERNATIVE REMEDY**

In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, or altered, or used in violation of this Ordinance, the building or land in violation shall constitute a nuisance, and 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 location, construction, maintenance, repair, alteration or use.

### **Section 12.030 PAYMENT IN LIEU OF CONDITION**

The Planning Commission may require a person who violates a condition of approval to make a payment in lieu of or in addition to complying with the condition. Payment in lieu of complying with the condition will be allowed only if the Planning Commission determines it is unreasonable for the person to comply with the condition.

Payment in lieu of complying with the condition may be allowed for violating a condition regarding the following:

Trees: Payment at a rate of \$2,000 per tree with a diameter breast height (DBH) of ten inches (10") or more measured at four feet (4') above the ground. For trees with a DBH of five-to-ten inches (5-10"), payment at a rate of \$250 per tree.

A mitigation bank fund will be established which directs the money to be paid for public purpose related to the purpose of the condition.