TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. COMPREHENSIVE PLAN

152. FLOOD DAMAGE PREVENTION

153. HISTORIC LANDMARK PRESERVATION

154. MANUFACTURED AND MOBILE HOMES

155. SIGN CODE

156. SUBDIVISIONS

157. URBAN RENEWAL PLAN

158. ZONING

159. ABATEMENT OF DANGEROUS BUILDINGS

160. WRITTEN DEMANDS FOR COMPENSATION UNDER BALLOT MEASURE 37

161. CONVERSION CONDOMINIUMS

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

150.01 Numbering of buildings
150.02 Time limit on permits established
150.03 Toilet facilities required for construction needing a building permit
150.04 Providing public alert weather radios in new buildings

Standard Codes Provisions

150.20 Standard codes adopted by reference
150.21 Adoption of public works construction specifications

Administration and Enforcement

150.55 Title
150.56 Purpose
150.57 Scope
150.58 Alternate materials and methods
150.59 Modifications
150.60 Tests
150.61 Powers and duties of Building Official
150.62 Deputies
150.63 Right of entry
150.64 Stop work orders
150.65 Authority to disconnect utilities in emergencies
150.66 Authority to abate hazardous equipment
150.67 Connection after order to disconnect
150.68 Occupancy violations
150.69 Board of Appeals; appeal procedure
150.70 Plans and permits
150.71 Work without permit; investigation
150.72 Inspections
150.73 Enforcement of standard codes
150.74 Fees

150.99 Penalty

Cross-reference:

Building Board of Appeals, see §§ 31.020 through 31.022

Construction of city sidewalks required, see § 95.02

GENERAL PROVISIONS

§ 150.01 NUMBERING OF BUILDINGS.

(A) In order to preserve the uniformity of numbering buildings in the city, whenever a new building is erected, it shall be the duty of the owner or agent to procure the correct address from the City Engineer. The owner or agent shall fasten the numbers on the building when the building is completed. The numbers must be fastened in a location that is visible from the public right-of-way. No building permits shall be issued for any building until the owner or agent has procured an address from the City Engineer.

(B) It shall be the duty of the City Engineer to assign addresses to buildings and inform owners or agents of the address assigned.

(Ord. 94-07, passed 3-28-94) Penalty, see § 150.99

§ 150.02 TIME LIMIT ON PERMITS ESTABLISHED.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. Relinquishment of one's right or claim to property without any future intent to gain title or possession.

SUSPENDED. To cause an action, use, process or practice to cease for a time in excess of 180 days.

(B) *Expiration of permits.*

(1) Every permit issued by the Building and Code Enforcement Director shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days, or if the work authorized by such permit is not completed and received a final inspection within 24 months from the date of such permit.

(2) Where a permit has been declared null and void, as set out in this section, the owner shall apply for a new permit to recommence any work, and the fee therefor shall be one-half the amount required for a new permit for such work, except where the permit has expired under the 24-month limitation, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year, wherein, to renew action on a permit after this expiration of time, the permittee shall pay a new full permit fee.

(3) Where the permit has expired pursuant to the 24 month clause, in order to renew action on a permit, the permittee shall apply for a new permit by submitting plans, showing how the balance of required construction will comply with existing codes in full force and effect at the time of the application, and further, the construction shall comply with all zoning and other pertinent ordinances adopted by the city at the time of application for the new permit.

(C) *Validity of certain permits.* Permits issued before the adoption of this section, shall be valid thereafter and the work authorized may be continued pursuant to the provisions of this section, and shall expire upon limitation in accordance with same.

(D) *Violations.*

(1) Within the limit of responsibility set forth in this section, no person, firm, or corporation shall use, occupy or maintain any occupancy contrary to or in violation of any final administrative order entered pursuant to this section.

(2) No person, firm or corporation, whether or not responsible under this section, shall knowingly cause or permit any person, firm or corporation to use, occupy, or maintain any occupancy in violation of this section.

(Ord. 95-47, passed 11-27-95) Penalty, see § 150.99

§ 150.03 TOILET FACILITIES REQUIRED FOR CONSTRUCTION NEEDING A BUILDING PERMIT.

All construction needing a building permit is required to have toilet facilities available to employees and other trades working under such building permit prior to commencing with such work or demolition of such work. Toilet facilities available to employees or other craftsmen, accessible within the building, is considered acceptable. If no toilet facilities are available at the construction site, other temporary portable toilet facilities must be provided. Such facilities must comply with all city, county, and state health laws.

(Ord. 94-08, passed 4-11-94) Penalty, see § 150.99

§ 150.04 PROVIDING PUBLIC ALERT WEATHER RADIOS IN NEW BUILDINGS.

To help notify residential and commercial building occupants of potential tsunami or other weather-related hazards, a functioning public alert certified weather radio must be provided and maintained in all new dwelling and tenant spaces.
(Ord. 2006-11, passed 12-11-06; Am. Ord. 2007-17, passed 11-26-07)

STANDARD CODES PROVISIONS

§ 150.20 STANDARD CODES ADOPTED BY REFERENCE.

The following codes are hereby adopted by reference and made a part of this code, the same as if set forth in full herein:

(A) The 1997 edition of the *Uniform Housing Code*, as published by the International Conference of Building Officials.

(B) The current edition of the *State of Oregon Structural Specialty Code and Fire and Life Safety Regulations*, and the 1997 *Uniform Building Code*, Appendix 33.

(C) The current editions of the *State of Oregon Mechanical Specialty Code*.

(D) The current edition of the *Oregon State Plumbing Specialty Code*, its standards and administrative rules.

(E) The current edition of the *Oregon Residential Specialty Code* .

(F) The *State of Oregon Administrative Rules*, Chapter 814, Division 23, for the placement of mobile homes, and Chapter 814, Division 28, mobile home parks.
(Ord. 94-08, passed 4-11-94; Am. Ord. 95-44, passed 11-13-95; Am. Ord. 99-10, passed 5-24-99; Am. Ord. 99-18, passed 11-22-99; Am. Ord. 2010-02, passed 4-26-10)
Cross-reference:
Adoption of Uniform Code for Abatement of Dangerous Buildings, see Ch. 159

§ 150.21 ADOPTION OF PUBLIC WORKS CONSTRUCTION SPECIFICATIONS.

The 2002 edition of the *Oregon Standard Specification for Public Works Construction* as issued by the American Public Works Association, as hereafter modified or amended, is hereby adopted and made a part of this code the same as if set forth in full herein. All work done and materials used for public works construction awarded or otherwise authorized shall conform to these standards, unless otherwise modified by the City Public Works Department.
(Ord. 90-22, passed 7-9-90; Am. Ord. 2002-10, passed 7-25-02) Penalty, see § 150.99

ADMINISTRATION AND ENFORCEMENT

§ 150.55 TITLE.

These regulations shall be known as the City of Seaside Building Code, and may be cited as such and will be referred to herein as "this subchapter."
(Ord. 96-24, passed 6-24-96)

§ 150.56 PURPOSE.

The purpose of this subchapter is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and

security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.
(Ord. 96-24, passed 6-24-96)

§ 150.57 SCOPE.

(A) This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

(B) Where, in any specific case, different sections of this subchapter specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(C) Where, in any specific case, there is a conflict between this subchapter and Oregon Revised Statutes, the statute shall govern.
(Ord. 96-24, passed 6-24-96)

§ 150.58 ALTERNATE MATERIALS AND METHODS.

(A) The provisions of this subchapter are not intended to prevent the use of any alternate material, design or method of construction not specifically proscribed by this subchapter, provided such alternate has been approved and its use authorized by the Building Official.

(B) The Building Official may approve any such alternate material, design or method, provided the Building Official finds that the proposed material, design or method complies with the provisions of this subchapter and that it is, for the purpose intended, at least the equivalent of that prescribed in this subchapter in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

(C) The Building Official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the agency.
(Ord. 96-24, passed 6-24-96)

§ 150.59 MODIFICATIONS.

When there are practical difficulties in carrying out the provisions of this subchapter, the Building Official may grant modifications provided the Building Official finds that the modification is in conformance with the intent and purpose of this subchapter and that the modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the Code Enforcement Agency.
(Ord. 96-24, passed 6-24-96)

§ 150.60 TESTS.

(A) Whenever there is insufficient evidence of compliance with the provisions of this subchapter or that any material, method or design does not conform to the requirements of this subchapter, the Building Official may require tests as proof of compliance to be made at no expense to this jurisdiction.

(B) Test methods shall be as specified by this subchapter or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures.

(C) All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the Building Official for the period required for the retention of public records.
(Ord. 96-24, passed 6-24-96)

§ 150.61 POWERS AND DUTIES OF BUILDING OFFICIAL.

(A) There is established a Code Enforcement Agency which shall be under the administrative and operational control of the Building Official.

(B) The Building Official is authorized to enforce all the provisions of this subchapter.

(C) The Building Official shall have the power to render written and oral interpretations of this subchapter and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this subchapter.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99)

§ 150.62 DEPUTIES.

In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint technical officers and inspectors and other employees to carry out the functions of the Code Enforcement Agency.
(Ord. 96-24, passed 6-24-96)

§ 150.63 RIGHT OF ENTRY.

When it may be necessary to inspect to enforce the provisions of this subchapter, or the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this subchapter or which otherwise makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this subchapter, provided that if such building or premises is occupied credentials shall be presented to the occupant and entry requested. If such building or premises is unoccupied, the Building Department shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by O.R.S. to secure entry.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99)

§ 150.64 STOP WORK ORDERS.

Whenever any work is being done contrary to the provisions of this subchapter (or other pertinent laws or ordinances implemented through its enforcement), the Building Official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed .
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99) Penalty, see § 150.99

§ 150.65 AUTHORITY TO DISCONNECT UTILITIES IN EMERGENCIES.

The Building Official shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this subchapter when necessary to eliminate an immediate hazard to life or property. The Building Department shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99)

§ 150.66 AUTHORITY TO ABATE HAZARDOUS EQUIPMENT.

(A) When the Building Official ascertains that equipment, or any portion of equipment, regulated by this subchapter has become hazardous to life, health or property, the Building Official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice.

(B) When equipment or an installation is to be disconnected, written notice of the disconnection (and causes) shall be given within 24 hours to the involved utility, the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this subchapter and in violation of a notice issued pursuant to the provisions of this section, the Building Official may institute such action as he/she deems necessary to prevent, restrain, correct or abate the violation.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99)

§ 150.67 CONNECTION AFTER ORDER TO DISCONNECT.

No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this subchapter which has been disconnected or ordered disconnected or discontinued by the Building Official until the Building Official specifically authorizes the re-connection and/or use of such equipment.
(Ord. 96-24, passed 6-24-96) Penalty, see § 150.99

§ 150.68 OCCUPANCY VIOLATIONS.

Whenever any building, structure or equipment therein regulated by this subchapter is used contrary to the provisions of this subchapter, the Building Official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official in his notice and make the structure, or portion thereof, comply with the requirements of this subchapter.
(Ord. 96-24, passed 6-24-96) Penalty, see § 150.99

§ 150.69 BOARD OF APPEALS; APPEAL PROCEDURE.

(A) *Board of Appeals.*

(1) In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this subchapter, there shall be created a Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The Building Official shall be an ex officio member of and shall act as secretary to the Board but shall have no vote on any matter before the Board.

(2) The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

(3) The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this subchapter nor shall the Board be empowered to waive requirements of this subchapter.

(B) *Appeal procedure.*

(1) Any decision relating to the suitability of alternate materials and methods of construction or interpretation by the Building Official with regard to

the building code may be appealed to the Board of Appeals in conformance with procedures provided .

(2) An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the Building Department.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99)

§ 150.70 PLANS AND PERMITS.

(A) *Issuance.*

(1) The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that
the work described in application for a permit and the plans, specifications and other data filed conform to the requirements of this subchapter and other pertinent laws and ordinances, and that the fees have been paid, the Building Department shall issue a permit to the applicant.

(2) When the Building Department issues the permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications approved. Such approved plans and specifications shall not be changed, modified and altered without authorizations from the Building Official, and all work regulated by this subchapter shall be done in accordance with the approved plans.

(3) The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this subchapter. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

(B) *Retention of plans.* One set of approved plans, specifications and computations shall be retained by the Building Department for a period as described in OAR Chapter 166 ; and one set of approved plans and specifications shall be returned to the applicant, and the set shall be kept on the site of the building or work at all times during which the work authorized is in progress.

(C) *Validity of permit.*

(1) The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this subchapter or of any other ordinance of the jurisdiction or any other federal, state, or local law, statute, rule, regulation, or ordinance.

(2) The issuance of a permit based on plans, specifications and other data shall not prevent the Building Official from requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on when in violation of this subchapter or of any other ordinances of this jurisdiction.

(D) *Expiration of plan reviews.* Applications for which no permit issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may be returned to the applicant or destroyed by the Building Department. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(E) *Permit expiration, extension and reinstatement.* As set out in Ordinance 95-47 (See § 150.02).

(F) *Not transferable.* A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work .

(G) *Suspension/revocation.* The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this subchapter whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the Code of Ordinances.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-10, passed 5-24-99)

§ 150.71 WORK WITHOUT PERMIT; INVESTIGATION.

(A) Whenever any work for which a permit is required by this subchapter has been commenced without first obtaining the permit, a special investigation shall be made before a permit may be issued for such work.

(B) An investigation fee in the amount equal to the permit fee but not less than $50, in addition to the permit fee and any assessment penalty, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this subchapter, nor from any penalty prescribed by law.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99; Am. Ord. 2010-02, passed 4-26-10) Penalty, see § 150.99

§ 150.72 INSPECTIONS.

(A) It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

(B) Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the Building Department to conveniently make the required entries regarding inspection of the work. This card shall be made available by the permit holder until final approval has been granted by the Building Department.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99) Penalty, see § 150.99

§ 150.73 ENFORCEMENT OF STANDARD CODES.

(A) The *Oregon Structural Specialty Code*, as adopted by OAR 918-460-0010 through 918-460-0015.

(B) Appendix chapter 33 of the *Uniform Building Code*, 1997 edition, published by the ICBO, is adopted as part of this subchapter.

(C) The *Oregon Mechanical Specialty Code*, as adopted by OAR 918-440-0010 through 918-440-0040, is enforced as part of this subchapter.

(D) The *Oregon Plumbing Specialty Code*, as adopted by OAR 918-750-0010, is enforced as part of this subchapter.

(E) The *Oregon Electrical Specialty Code*, as adopted by OAR 918-290-0010, is enforced as part of this subchapter.

(F) The *Oregon Residential Specialty Code*, as adopted by OAR 918-480-0000 through 918-480-0010, and the 1997 *Uniform Building Code*, Appendix Chapter 33, are enforced as part of this subchapter.

(G) The manufactured dwelling park and mobile home park rules adopted by OAR 918-600-0005 through 918-600-0110 are enforced as part of this subchapter.

(H) The manufactured dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020 are enforced as part of this subchapter.

(I) The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0085 are enforced as part of this subchapter. (Ord. 96-24, passed 6-24-96; Am. Ord. 2010-02, passed 4-26-10)

§ 150.74 FEES.

(A) Building, plumbing and mechanical permit fees under this subchapter shall be those rates adopted by the Council by resolution. The Council shall establish, and as considered necessary from time to time, change the fees by resolution after public hearing.

(B) The Building Official may authorize the refunding of fees paid as follows:

(1) Building permit fees - 80%.

(2) Plan review fees - 80% where the plan review has not been completed.

(C) The determination of value or valuation under any provisions of this subchapter shall be based on the building valuation as determined by the Building Official.
(Ord. 96-24, passed 6-24-96; Am. Ord. 99-09, passed 5-24-99; Am. Ord. 2004-01, passed 1-26-04)

§ 150.99 PENALTY.

(A) *Generally.* Any person violating any provisions of §§ 150.01,150.03 or 150.04, and any provision of this chapter for which no specific penalty is otherwise provided, shall, upon conviction in the municipal court of the city, be punished by a fine not to exceed $1,000.

(B) *Administrative civil penalty.* Violation of any provision of § 150.20 of this chapter is subject to an administrative civil penalty not to exceed $5,000 for a single violation, and shall be processed in accordance with the procedures set forth in this code. Each additional day that a violation of a provision of this chapter exists constitutes a separate violation with a civil penalty not to exceed $1,000.

(C) *Public nuisance.* In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance, and may be abated by any of the procedures set forth under law.

(D) *Penalties and remedies not exclusive.* The penalties and remedies provided in this section are not exclusive, and are in addition to other penalties and remedies available to the city under any ordinance, statute or law.

(E) *Authority to impose a citation into municipal court and assess administrative civil penalties.*

(1) Upon a determination by the Building Official that any responsible person, firm, corporation or other entity however organized has violated any

provisions of §§ 150.01, 150.03 or 150.04, may be issued a citation into municipal court.

(2) Upon a determination by the Building Official that any responsible person, firm, corporation or other entity however organized has violated any provisions of § 150.20; the Building Official may issue a notice of civil violation and impose upon the violator, and/or any other responsible person, an administrative civil penalty. For purposes of this division, a ***RESPONSIBLE PERSON*** includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, this may include the owner or owners as well.

(3) Prior to issuing a citation or an administrative civil penalty, the Building Official may pursue reasonable attempts to secure voluntary correction.

(4) Any notice of a civil violation that imposes an administrative civil penalty under this section shall either be served by personal service or shall be sent by registered or certified mail.

(a) Any such notice served by mail shall be deemed received, for purposes of any time computations hereunder, three days after the date if mailed to an address within this state, and seven days after the date if mailed to an address outside this state.

(b) Every notice shall include:

1. Reference to the particular code provision, ordinance number or rule involved;

2. A short and plain statement of the matters asserted or charged;

3. A statement of the amount of the penalty or penalties imposed; and

4. A statement of the party's right to appeal the civil penalty to the City Manager; a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

(5) Any person, firm, corporation or other entity however organized that is issued a notice of civil penalty may appeal the penalty to the City Manager.

(6) A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager within ten days.

(7) Each day the violator fails to remedy the code violation shall constitute a separate violation.

(8) The civil penalty authorized by this section shall be in addition to assessments or fees for any costs incurred by the city in remediation, cleanup or abatement, and any other actions authorized by law.

(F) *Unpaid penalties.*

(1) Failure to pay an imposed administrative civil penalty pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code.

(a) Such time may be extended as determined by the City Manager. Each day the penalty is not paid after this deadline shall constitute a separate violation.

(b) The city is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by law.

(2) In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses; issuance of a stop work

order, if applicable; or revocation or suspension of any issued permits or certificate of occupancy.
(Ord. 94-07, passed 3-28-94; Am. Ord. 94-08, passed 4-11-94; Am. Ord. 95-47, passed 11-27-95; Am. Ord. 96-16, passed 6-10-96; Am. Ord. 96-24, passed 6-24-96; Am. Ord. 99-10, passed 5-24-99; Am. Ord. 2010-02, passed 4-26-10)

CHAPTER 151: COMPREHENSIVE PLAN

Section

151.01 Comprehensive plan adopted by reference

§ 151.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE.

The document attached to Ord. 83-11 and entitled *City of Seaside Comprehensive Plan Ordinance 83-11* is hereby incorporated by reference and made a part hereof the same as if set forth in full herein. Complete copies of the Comprehensive Plan are on file at City Hall and are available for public inspection.
(Ord. 83-11, passed 6-27-83; Am. Ord.83-28, passed 11-28-83; Am. Ord. 84-05, passed 3-26-84; Am. Ord. 84-24, passed 9-10-84; Am. Ord. 85-32, passed 9-23-85; Am. Ord. 87-06, passed 5-27-87; Am. Ord. 88-17, passed 10-24-88; Am. Ord. 89-24, passed 12-12-89; Am. Ord. 93-22, passed 6-28-93; Am. Ord. 94-20, passed 10-10-94; Am. Ord. 95-25, passed 6-12-95; Am. Ord. 95-33, passed 8-14-95; Am. Ord. 95-52, passed 1-8-96; Am. Ord. 96-04, passed 3-25-96; Am. Ord. 96-12, passed 4-22-96; Am. Ord. 96-22, passed 5-13-96; Am. Ord. 96-27, passed 7-22-96; Am. Ord. 96-29, passed 7-22-96; Am. Ord. 96-37, passed 9-23-96; Am. Ord. 96-40, passed 9-23-96; Am. Ord. 96-41, passed 9-23-96; Am. Ord. 96-43, passed 9-23-96; Am. Ord. 2003-08, passed 9-22-03; Am. Ord. 2010-03, passed 5-24-10; Am. Ord. 2011-02, passed 6-27-11; Am. Ord. 2014-02, passed 2-24-14)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

General Provisions

152.01 Title
152.02 Purpose and objectives
152.03 Definitions
152.04 Lands to which provisions apply
152.05 Establishment of flood zones
152.06 Compliance required
152.07 Interpretation
152.08 Warning and disclaimer of liability
152.09 Abrogation and greater restrictions

Provisions for Flood Hazard Reduction

152.20 General standards
152.21 Specific standards
152.22 Coastal high hazard areas
152.23 Specific standards for areas of shallow flooding (AO Zones)
153.24 Before regulatory floodway
152.25 Floodways

Administration

152.35 Establishment of floodplain permit
152.36 Duties and responsibilities of Building Official
152.37 Use of available flood data
152.38 Information to be obtained and maintained by Building Official
152.39 Alteration of watercourses
152.40 Interpretation of FIRM boundaries
152.41 Appeals and variance procedures

152.99 Penalty

GENERAL PROVISIONS

§ 152.01 TITLE.

This chapter shall be known as the flood damage prevention ordinance.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.02 PURPOSE AND OBJECTIVES.

It is the purpose of this chapter to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the Comprehensive Plan, the specific objectives are:

(A) To promote the general health, welfare and safety of the city.

(B) To prevent the establishment of certain structures and land uses unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards.

(C) To minimize the need for rescue and relief efforts associated with flooding.

(D) To help maintain a stable tax base by providing for sound use and development in flood-prone areas, and to minimize prolonged business interruptions.

(E) To minimize damage to public facilities and utilities located in flood hazard areas.

(F) To insure that potential home and business buyers are notified that property is in a flood area. (Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA OF SHALLOW FLOODING. A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The water surface elevation during the base flood in relation to a specified datum. The base flood elevation (BFE) is depicted on the FIRM to the nearest foot, and in the FIS to the nearest 0.1 foot.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides; except that below-grade crawlspaces that comply with the standards in *FEMA Technical Bulletin 11-01* and the Building Code shall not be considered basements. Citizens are hereby advised that approved below-grade crawlspaces will increase the cost of flood insurance and cause an additional charge to be added to the basic policy premium.

BREAKAWAY WALLS. Any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building materials that are not part of the structural support of the building, and that are so designed to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any building to which they might be carried by flood waters.

COASTAL HIGH HAZARD AREA. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone VE or V.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones for those areas.

FLOOD INSURANCE STUDY. The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary - Floodway Map and the water surface elevation of the base flood.

FLOOD or *FLOODING.* A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY or *REGULATORY FLOODWAY.* The channel of a river or other watercourse, and those portions of the floodplain adjoining the channel, required to discharge and store the flood water or flood flows associated with the regulatory flood.

HIGHWAY READY. Refers to a recreational vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions.

LOWEST FLOOR (except manufactured homes). The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's *LOWEST FLOOR*; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found in § 152.20(E) (i.e., provided there are adequate flood ventilation openings).

LOWEST FLOOR (manufactured homes). The floor of the lowest enclosed area of a manufactured dwelling. For the purpose of this code, *LOWEST FLOOR* shall mean the bottom of the longitudinal chassis frame beam (including any electrical crossover connections) in A, AE, AO and AH Zones, and the bottom of the lowest horizontal structural member (including any electrical crossover connections) supporting the home in V and VE Zones. An unfinished or flood-resistant enclosure, used solely for vehicle parking, home access or limited storage, shall not be considered the *LOWEST FLOOR*, provided the enclosed area is not constructed so as to render the home in violation of the flood-related provisions of this code.

MANUFACTURED HOME. A structure, transportable in one or more sections, built on a permanent chassis, and designed for use with or without a permanent foundation when attached to the required utilities. The term *MANUFACTURED HOME* does not include a *RECREATIONAL VEHICLE.*

MANUFACTURED HOME PARK or *MANUFACTURED HOME SUBDIVISION.* A parcel (or contiguous parcels) of land divided into two or more lots for the rent or sale for which the construction of the facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this chapter.

MEAN SEA LEVEL (MSL). The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations were referenced on prior Flood Insurance Rate Maps. Elevations are now based on North American Vertical Datum of 1988 (NAVD88).

NEW CONSTRUCTION. Structures for which the *START OF CONSTRUCTION* commenced on or after the effective date of the initial FIRM (September 5, 1979).

PERMANENT FOUNDATION. A natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.

RECREATIONAL VEHICLE. A vehicle built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and primarily designed as temporary living quarters for camping, travel or seasonal use.

REINFORCED PIER. A minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

SPECIAL FLOOD HAZARD AREA (SFHA). Areas subject to inundation from the waters of a 100-year flood.

START OF CONSTRUCTION (including manufactured homes). Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date. The *ACTUAL START* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. *PERMANENT CONSTRUCTION* does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways: nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms: nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the *ACTUAL START OF CONSTRUCTION* means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

STRUCTURE. A walled and roofed building, a manufactured home, and a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure, either before the improvement or repair is started, or if the structure is being restored, before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either before the improvement or repair is started, or if the structure is being restored, before the damage occurred. *SUBSTANTIAL IMPROVEMENT* is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include:

(1) Any project for improvement to comply with state or local health, sanitary or safety code specifications that have been identified by the local Code Enforcement Official and that are necessary to ensure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

VARIANCE. A grant of relief to a person from the requirements of this chapter in a manner that would otherwise be prohibited by this chapter.

WET FLOODPROOFING. Permanent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by allowing water to enter the structure as explained in *FEMA Technical Bulletin 7-93*.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.04 LANDS TO WHICH PROVISIONS APPLY.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.05 ESTABLISHMENT OF FLOOD ZONES.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report titled "The Flood Insurance Study for Clatsop County, Oregon, and Incorporated Areas", Volumes 1 and 2, dated September 17, 2010, with accompanying Flood Insurance Rate Maps, are hereby adopted by reference and formally recognized by the city for regulatory purposes under this chapter. The Flood Insurance Study and FIRM are on file at 989 Broadway. When base flood elevation data is not provided (Zones A and V), the best available information for flood hazard area identification, as outlined in § 152.37, shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under § 152.37.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.06 COMPLIANCE REQUIRED.

No structure or land shall hereafter be used and no structure shall be located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.07 INTERPRETATION.

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

(A) Considered as minimum requirements.

(B) Liberally construed in favor of the city.

(C) Deemed neither to limit nor repeal any provisions of other city ordinances.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.08 WARNING AND DISCLAIMER OF LIABILITY.

(A) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.

(B) This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create a liability on the part of the city, or by an officer or employee thereof, for any flood damages that result from reliance on this chapter, or any administrative decision lawfully made thereunder.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.09 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 152.20 GENERAL STANDARDS.

In all areas of special flood hazard as presented on the FIRM, the following standards shall apply for all new construction and substantial improvements.

(A) *Anchoring.*

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

(2) All manufactured homes shall be anchored to prevent flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(a) Over-the-top ties be provided at each end of the manufactured home, with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.

(b) Frame ties be provided at each corner of the home, with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(d) Additions to the manufactured homes be similarly anchored.

(3) An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles an hour or greater. Certification must be provided to the Building Official that this standard has been met.

(B) *Construction materials and methods.*

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(C) *Utilities.*

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) *Mechanical and utility equipment.* Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(E) *Use of openings in enclosures below a structure's lowest floor.*

(1) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one

square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.

(2) Regardless of the design method. ***BELOW-GRADE CRAWLSPACES***, enclosed areas below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point (see *FEMA Technical Bulletin 11-011*), shall not be considered basements. Citizens are hereby advised that approved below-grade crawlspaces will increase the cost of flood insurance and cause an additional charge to be added to the basic policy premium.

(F) *Subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(4) Where base flood elevation data has not been provided or is available from another authoritative source, it shall be provided for subdivision proposals and other proposed developments greater than 50 lots or five acres, whichever is less.

(G) *Review of building permits.* Where base flood elevation data is not available, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, and the like, where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.21 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 152.05, Establishment of Flood Zones, or § 152.37, Use of Available Flood Data, the following provisions are required:

(A) *Residential construction.* New construction or substantial improvement of any residential structure (other than a manufactured home) shall have the lowest floor, including basement, elevated to one foot or more above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed in accordance with § 152.20(E).

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below this level the structure is watertight, with walls substantially impermeable to the passage of water, and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this division, based on their development and/or

review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in § 152.38(B)(2). Structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in § 152.20(E).

(C) *Manufactured homes.*

(1) All manufactured homes to be placed or substantially improved within Zones AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 12 inches or more above the base flood elevation.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation system, in accordance with § 152.20(A)(2) or (3).

(D) Recreational vehicles placed on sites are required to either:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick-disconnect type utilities and security devices, and with no permanently attached additions; or

(3) Meet the manufactured home elevation requirements in § 152.21(C) and anchoring requirements in § 152.21(C)(1).

(E) All structures in AH Zones are required to provide adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.22 COASTAL HIGH HAZARD AREAS.

Coastal high hazard areas (V and VE Zones) are located within the areas of special flood hazard established in § 152.05. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, the following provisions shall apply:

(A) All building or structures shall be located landward of the reach of mean high tide.

(B) All new construction and substantial improvements in V and VE Zones (other than a manufactured home) shall be elevated on pilings and columns so that:

(1) The bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is elevated one foot or more above the base flood level.

(2) The pile or column foundation, and structure attached thereto, are anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind loading shall be based on the Structural Specialty Code adopted by the City of Seaside, and water loading values shall each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) of this division.

(C) There shall be no fill used for structural support.

(D) All manufactured homes to be placed or substantially improved within V and VE Zones must meet the standards in division (B)(1) and (2);

however, they are still subject to any greater restriction indicated in the adopted Oregon Manufactured Dwelling Installation Specialty Code.

(E) Compliance with provisions of § 152.22(B), (C), (D) and (H) shall be certified to by a registered professional engineer or architect.

(F) Recreational vehicles placed on sites are required to meet the provisions of § 152.21(D)(1) or (2).

(G) There shall be no alteration of sand dunes that would increase potential flood damage.

(H) All new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement or structural damage to the elevated portion of the building or supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following requirements:

(1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

(2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum and water loading values to be used in the determination shall each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(I) If breakaway walls are utilized, such enclosed space shall not be used for human habitation and can only be used for parking of vehicles, building access or storage.

(J) Prior to construction, plans for any structure that will have breakaway walls must be submitted to the Building Official for approval.

(K) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this chapter shall not enclose the space below the lowest floor unless breakaway walls are used as provided in § 152.22(H) and (I).

(L) An elevation shall be obtained (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding piles and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The Building Official shall maintain a record of all such information.
(Ord. 90-12, passed 5-14-90; Am. Ord. 91-02, passed 1-11-91; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.23 SPECIFIC STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

In all areas of special flood hazard designated as areas of shallow flooding, the following provisions shall apply:

(A) New construction and substantial improvements of residential structures (other than a manufactured home) within AO Zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).

(B) Manufactured homes within AO Zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, 12

inches or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).

(C) New construction and substantial improvements of nonresidential structures within AO zones shall either:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight, with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in § 152.21(B).

(D) Adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures are required.

(E) Recreational vehicles placed on sites are required to meet the provisions of § 152.21(D) (1) or (2).
(Ord. 90-12, passed 5-14-90; Am. Ord. 91-02, passed 1-11-91; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.24 BEFORE REGULATORY FLOODWAY.

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation on the base flood more than one foot at any point within the community.
(Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.25 FLOODWAYS.

Located within areas of special flood hazard established in § 152.05 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood water which carry debris, potential projectiles, erosion potential, the following provisions apply:

(A) Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided, demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 152.21, Specific Standards.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

ADMINISTRATION

§ 152.35 ESTABLISHMENT OF FLOODPLAIN PERMIT.

A floodplain permit shall be required before construction or development begins within any area of

special flood hazard established in § 152.05 in conformance with the provisions of this section. The permit shall be for all structures including manufactured homes, as set forth in the definitions in § 152.03, and for all other developments including fill and other activities, also as set forth in the definitions. Application for a floodplain permit shall be made to the Building Official on forms furnished by him, and shall specifically include the following information:

(A) Elevation in relation to North American Vertical Datum of 1988 (NAVD88) of the lowest floor (including basement) of all structures; except in AO Zones where the elevation must be based on the highest adjacent grade.

(B) Elevation in relation to North American Vertical Datum of 1988 (NAVD88) to which any nonresidential structure that has been floodproofed.

(C) Certification by a registered professional engineer or architect that any nonresidential floodproofed structure meets the floodproofing criteria in § 152.21(B).

(D) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.36 DUTIES AND RESPONSIBILITIES OF BUILDING OFFICIAL.

The duties of the Building Official shall include, but not be limited to, the following:

(A) Review all applications to determine that the permit requirements of this chapter have been satisfied.

(B) Review all applications to insure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(C) Review all applications in the area of special flood hazard to determine if the proposed development adversely affects the flood-carrying capacity of the area.

(D) Review all applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions under § 152.25(A) and (B) are met.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.37 USE OF AVAILABLE FLOOD DATA.

The Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A comply with §§ 152.21, Specific Standards, and § 152.25, Floodways.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.38 INFORMATION TO BE OBTAINED AND MAINTAINED BY BUILDING OFFICIAL.

(A) Obtain and record the actual elevation (in relation to NAVD88) of the lowest floor (including basement) of all new or substantially improved structures; except in AO Zones where the elevation must be based on the highest adjacent grade.

(B) For all new or substantially improved floodproofed structures:

(1) Verify and record the actual elevation (in relation to NAVD88); and

(2) Maintain the floodproofing certifications required in § 152.35(C).

(C) Maintain for public inspection all records pertaining to the provisions of this chapter.

(D) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.39 ALTERATION OF WATERCOURSES.

The Building Official shall:

(A) Notify adjacent communities and the Oregon Department of Land Conservation and Development (DLCD) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(B) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.40 INTERPRETATION OF FIRM BOUNDARIES.

The Building Official shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in this chapter.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

§ 152.41 APPEALS AND VARIANCE PROCEDURES.

(A) The Planning Commission as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Building Official in the enforcement or administration of this chapter.

(C) Those aggrieved by the decision of the Planning Commission, or any taxpayer, may appeal such decision to the County Circuit Court, as provided by state law.

(D) Variances shall be issued in accordance with Code of Federal Regulations Title 44 (44 CFR § 60.6), any applicable amendment thereto, and procedures outlined by the city.

(E) Authorization of a variance shall be void after six months unless the new construction, substantial improvement or approved activity has taken place. However, the Planning Commission may, at its discretion, extend authorization for an additional six months upon request.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2007-12, passed 10-9-07; Am. Ord. 2010-06, passed 9-27-10)

§ 152.99 PENALTY.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 180 days, or by a fine not to exceed $500, or both such fine and imprisonment. The imposition of a penalty does not relieve a person of the duty to comply with this chapter.
(Ord. 90-12, passed 5-14-90; Am. Ord. 2010-06, passed 9-27-10)

CHAPTER 153: HISTORIC LANDMARK PRESERVATION

Section

153.01 Title
153.02 Purpose and scope
153.03 Definitions
153.04 Citizen information
153.05 Landmarks Commission
153.06 Landmark and district designation
153.07 Demolition and moving
153.08 Exterior alteration
153.09 Notice and public hearing
153.10 Appeals
153.11 Fees
153.12 Violations

153.99 Penalty

§ 153.01 TITLE.

This chapter shall be known as the *Historic Landmark Preservation Ordinance* of the city. (Ord. 90-35, passed 10-8-90)

§ 153.02 PURPOSE AND SCOPE.

(A) *Purpose.* The purpose of this chapter is to:

(1) Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the city;

(2) Foster civic pride in the accomplishments of the past;

(3) Strengthen the economy of the city by enhancing the historic resources for tourists and visitors; and

(4) Carry out the provisions of the Land Conservation and Development Commission Goal 5.

(B) *Conformance required.* No building, site, object, or structure as listed in the inventory, or part thereof, shall be demolished, moved, or altered on a landmark site except in conformity with this chapter. (Ord. 90-35, passed 10-8-90)

§ 153.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. The addition to, removal of or from, or physical modification to the exterior of a building.

COUNCIL. The Seaside City Council.

COMMISSION. The Seaside Landmarks Commission.

CITY. The City of Seaside, Oregon.

CULTURAL RESOURCE INVENTORY or ***THE INVENTORY.*** The 1987 Survey and Inventory of Historical Resources.

DEMOLISH. To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.

DEPARTMENT. The City of Seaside Planning Department.

DIRECTOR. The Director of the Seaside Department of Planning, the Director's designee, or an official with similar responsibilities.

HISTORIC DISTRICT. A geographically definable area, the boundaries of which have been adopted by the commission and council under § 153.06 of this chapter.

LANDMARK. Any site, object, building, or structure designated by the Council under § 153.06 of this chapter.

MAJOR PUBLIC IMPROVEMENT. The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property repair or maintenance of existing public improvements.

SITE. Land with historic significance.
(Ord. 90-35, passed 10-8-90)

§ 153.04 CITIZEN INFORMATION.

(A) Subject to the availability of funds, the Planning Department shall hold public workshops, distribute written information, and educate the public regarding local, state, and federal programs and incentives to encourage protection of historic resources.

(B) The Director shall be available for consultation with property owners making application for district or landmark designation or for exterior alterations or new construction in an historic district or on a landmark site.

(C) The Director shall provide notice to the current owner upon receipt of a request for designation if the property owner is different from the applicant.
(Ord. 90-35, passed 10-8-90)

§ 153.05 LANDMARKS COMMISSION.

(A) The Landmarks Commission shall consist of five members appointed by the Mayor subject to City Council approval.

(B) Three of the five members shall reside within the city.

(C) All terms shall be for a period of three years. Two initial members will be appointed to three-year terms, two initial members will be appointed to two-year terms, and one initial member will be appointed to a one-year term.

(D) A chairperson, vice-chairperson, and secretary shall be elected from the Landmarks Commission membership and shall serve for one year subject to reelection. Election of officers will occur during the first meeting of the year.

(E) Three members shall constitute a quorum and shall be entitled to conduct official business and act for the entire Commission.

(F) Members to the Commission will be selected from the following:

(1) Architects;

(2) Historians;

(3) Craftsmen in the construction trades;

(4) Archaeologists;

(5) Planners;

(6) Landscape designers or architects; and

(7) Public at large.
(Ord. 90-35, passed 10-8-90)

§ 153.06 LANDMARK AND DISTRICT DESIGNATION.

(A) The process for designating a Landmark or Historic District may be initiated by the Landmarks Commission, or by affected property owners who submit an application for designation to the Director. At the time of application the Director shall provide the property owner and applicant with information regarding the benefits and restrictions of designation.

(B) The following information shall be required in an application:

(1) The applicant's name and address.

(2) The owner's name and address, if different from the applicant.

(3) A written description of the boundaries of the proposed district or the location of the proposed landmark.

(4) A map illustrating the boundaries of the proposed district or the location of the proposed landmark.

(5) A statement explaining the following:

(a) The reason(s) why the proposed district or landmark should be designated.

(b) The reason(s) why the boundaries of the proposed district are appropriate for the designation.

(c) The potential impact, if any, which designation of the proposed district or landmark would have on the residents or other property owners in the area.

(6) Any other information deemed necessary by the Director.

(C) Within seven days of receipt of a complete application, the Director shall forward the request to the Landmarks Commission. The Commission shall hold a public hearing within 45 days of receipt of the application pursuant to § 153.09. The Commission shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request. The Commission shall forward a summary of its action to the Planning Commission within 15 days following conclusion of the public hearing.

(D) The Landmarks Commission shall consider the following criteria in determining whether to approve a proposed landmark or district:

(1) Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;

(2) Association with an event that has made a significant contribution to the city, county, state, or nation;

(3) Association with broad patterns of political, economic, or industrial history in the city, county, state, or nation.

(4) Significance as an example of a particular architectural style, building type and/or convention;

(5) Significance because the property is 50 years old or older in conjunction with other criteria listed below;

(6) Significance due to quality of composition, detailing, and/or craftsmanship;

(7) Significance as an example of a particular material and/or method of construction;

(8) Significance because the resource retains its original design features, materials, and/or character;

(9) Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;

(10) Significance as a visual landmark;

(11) Significance because the existing land-use surrounding the resource contribute to the integrity of the historic period represented;

(12) Significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;

(13) The resource is listed on the National Register of Historic Places.

(E) The process for removing a Landmark or Historic District designation may be initiated by the Council, the Planning Commission, the Landmarks Commission, or by the property owner who submits to the Director an application for removal of the designation. The Landmarks Commission may amend or rescind its designation by following procedures required by this chapter for designating a landmark, including the adoption of appropriate findings.

(F) The Landmarks Commission shall take into account the desires of the owners of property with respect to its designation as a historic landmark; however, it is not the intent under this provision, to require owner consent in the designation of properties as historic landmarks.

(G) The Landmarks Commission may utilize fee acquisition, easements, and development rights acquisition in order to protect designated landmarks. (Ord. 90-35, passed 10-8-90; Am. Ord. 92-11, passed 3-9-92; Am. Ord. 93-25, passed 7-12-93)

§ 153.07 DEMOLITION AND MOVING.

(A) No person shall move, demolish, or cause to be demolished a landmark, a significant resource or site listed in the Cultural Resource Inventory, unless a permit to do so has first been obtained from the Director. Application for a permit shall be on a form provided by the Director and contain information deemed necessary by the Director.

(B) Upon receipt of a complete application, the Director will include all requests on the agenda for consideration at the next available Landmarks Commission meeting. The Commission shall hold a public hearing pursuant to § 153.09 of this chapter within 45 days after a complete application has been received by the Department.

(C) In determining whether the requested demolition or moving is appropriate, the Commission shall consider the following:

(1) Plans, drawings, and photographs submitted by the applicant;

(2) Information presented at the public hearing concerning the proposal;

(3) Provisions of the Comprehensive Plan;

(4) The purpose of this chapter as set forth in § 153.02.

(5) The criteria used in the original designation of the resource;

(6) Whether denial of the request will involve substantial hardship to the applicant;

(7) Whether issuance of the permit would act to the substantial detriment of the public welfare and be contrary to the purpose and scope of this chapter;

(8) The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it; and

(9) The physical condition of the resource.

(D) The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the Director shall issue the permit in compliance with all other codes and ordinances of the city.

(E) The Commission may disapprove the demolition or removal request if after considering the criteria in this section it determines that, in the interest of preserving historical or architectural values, the resources should not be demolished or moved. (For Appeal Process see § 153.10)

(F) The Commission may postpone the taking final action on a request for issuance of a demolition or moving permit for a period fixed by the Commission as follows:

(1) For landmarks, no more than 60 days following the date of public hearing. Further postponements may be made for a period not to exceed a total of 120 days from the date of hearing, if the Commission makes the findings specified in subsection (B) of this section.

(2) Further postponements as stated above may only be made if the Commission finds:

(a) There is a program or project underway that could result in public or private acquisition of the landmark or resources;

(b) There are reasonable grounds for believing the program or project may be successful; and

(c) After granting a further postponement, the Commission may order the Director to issue the permit if it finds:

(a) All programs or projects to save the resource have been unsuccessful;

(b) The application for demolition or moving has not been withdrawn; and

(c) The application otherwise complies with city ordinances and state law.

(G) A decision by the Commission to approve, disapprove or postpone issuance of a demolition or moving permit or to grant a further postponement may be appealed to the Planning Commission by any aggrieved party who appeared in person or through an attorney or who submitted written testimony at the Commission hearing and presented or submitted testimony related to the request under consideration. An appeal shall be in conformance with § 153.10 of this chapter.

(H) If no decision on the application is made by the Commission within the periods specified above, the Director shall issue the permit, subject to appeal to the Planning Commission.

(I) At the time a demolition or moving application is made the Director shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.

(J) During a period of postponement, the Landmarks Commission may require the property owner to:

(1) List the structure for sale with a real estate agent for a period of not less than 60 days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of five days over a five-week period.

(2) Give public notice by posting a hearing notice on site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. The sign shall be provided by the city and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the structure is located. The applicant is responsible for assuring that the sign is posted for a continuous 60-day period in conjunction with (1) above.

(3) Prepare and make available any information related to the history of the landmark.

(4) Assure that the owner has not rejected a bona fide offer that would lead to the preservation of the structure.

(K) Prior to the public hearing for issuance of a demolition permit, the Director shall issue a press release to local and state newspapers of general circulation in the city. The press release shall include, but not be limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.

(L) As a condition for approval of a demolition permit, the Landmarks Commission may:

(1) Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the city or other party determined appropriate by the Commission.

(2) Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.

(M) This chapter shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with an order by the Council to remove or demolish any landmark determined by the Building Inspector to be dangerous to life, health, or property.
(Ord. 90-35, passed 10-8-90)

§ 153.08 EXTERIOR ALTERATION.

(A) No person shall alter a landmark or any significant resource unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site unless approved by the Landmarks Commission.

(B) Application for alteration of a landmark or a landmark site shall be made to the Director. The application shall be on a form provided by the Director and shall contain information deemed necessary by the Director.

(C) The Director shall approve the alteration request if:

(1) There is no change in the appearance or material of the resource as it exists; or

(2) The proposed alteration is consistent with the original structure or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials; or

(3) If the proposed alteration does not exceed a 20% expansion in square footage of the original structure.

(D) If a request for alteration does not meet the provisions of division (C) of this section, the Director shall forward the application to the Commission. The Commission, after notice and public hearing held pursuant to § 153.09 of this chapter, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval.

(E) The Commission shall consider the following criteria in determining whether to approve an alteration request:

(1) The purpose of this chapter;

(2) The provisions of the Comprehensive Plan;

(3) The use of the resource, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in the preservation of the resource;

(4) The value and significance of the resource;

(5) The physical condition of the resource;

(6) The effect of requested changes related to the exterior design, arrangement, proportion, detail, scale, and/or materials;

(7) Pertinent aesthetic factors as identified by the Commission; and

(8) Economic, social, environmental and energy consequences of the proposed alteration.

(F) A decision by the Commission under this section shall be supported by findings.

(G) Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design or appearance of such feature or which the Building Official shall determine is required for public safety due to an unsafe or dangerous condition. Ordinary maintenance includes painting, even if the color is changed, window repair and replacement, and roof repair or replacement.
(Ord. 90-35, passed 10-8-90)

§ 153.09 NOTICE AND PUBLIC HEARING.

(A) Within 45 days of receipt of a complete application for designation, removal of designation, demolition or moving of a landmark, or for undertaking such activities in a landmark site, the

Commission shall conduct a public hearing to consider the application.

(B) At least 20 days prior to the hearing, the Director shall mail a written notice of the hearing and nature of the application to the following:

(1) All property owners within the proposed district;

(2) The owner of the landmark or a proposed landmark;

(3) All vicinity property owners within 250 feet of the subject property; and

(4) All other parties determined by the Director to have a possible interest in the property. (Ord. 90-35, passed 10-8-90)

§ 153.10 APPEALS.

(A) An order, requirement, decision, or determination of the Director issued under this chapter may be reviewed as follows: By the Landmarks Commission, upon appeal of a person aggrieved by the order, requirement, decision or determination of the Director, filed with the Director within 15 days of the date of decision.

(B) An action of the Landmarks Commission may be reviewed by the Planning Commission as follows:

(1) Upon the Planning Commission's own motion made within 15 days of the date of decision; or

(2) By appeal of any person aggrieved by the order, and who appeared in person or through an attorney or written testimony at the Commission hearing and presented or submitted testimony related to the matter being appealed, filed with the Director within 15 days of the date of decision.

(C) An appeal under this section shall be on a form made available by the Director and shall be accompanied by a filing fee. (See § 153.11). The appeal shall identify the specific provision of this chapter or the Comprehensive Plan that is alleged to have been violated by the Director or Commission. Upon receipt of a complete appeal form or timely request for review from the Planning Commission, the Director shall schedule a public hearing before the Planning Commission, as specified in § 153.09 of this chapter.

(D) In reviewing a decision of the Landmarks Commission, the Planning Commission shall consider any record developed in the proceedings. The record shall include:

(1) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Commission as evidence;

(2) All materials submitted by the Director with respect to the applications;

(3) The transcript or tape of the public hearing of the Commission;

(4) The findings and action of the Director or Commission; and

(5) Argument confined to the record by the parties or their legal representatives at the time of review before the Council.

(6) Testimony received by the Planning Commission during the public hearing.

(E) The Planning Commission may affirm, modify, or reverse all or part of the action of the Commission, or may remand the matter to the Commission for additional review. In all cases the Planning Commission shall make findings to justify its action. The findings shall be based on the record before the Planning Commission and any additional testimony or other evidence admitted into the record by the Planning Commission.

(F) All Planning Commission decisions may be appealed to the City Council, by appeal of any person aggrieved by the order and who appeared in person or through an attorney or written testimony at the Planning Commission hearing and presented or submitted testimony related to the matter being

appealed, filed with the Director within 15 days of the date of decision.
(Ord. 90-35, passed 10-8-90)

§ 153.11 FEES.

No fees will be charged for filing of applications under this chapter. The fee for an appeal will be $50.
(Ord. 90-35, passed 10-8-90)

§ 153.12 VIOLATIONS.

(A) No person shall violate this chapter, contribute to, permit or maintain a violation, or refuse or fail to obey an order issued pursuant to this chapter.

(B) All state, county, and city officials, employees, departments, and agencies vested with authority to issue permits, certificates or licenses shall adhere to and require conformance with this chapter and any order issued under this chapter.

(C) The demolition or moving of any landmark without required permits shall cause the property to be designated as a non-conforming use and no building permit shall be issued for any use other than replacement or rebuilding of the landmark.
(Ord. 90-35, passed 10-8-90)

§ 153.99 PENALTY.

Any person who violates any of the provisions of this chapter shall be fined not less than $50 nor more than $500. Each day that a violation continues to exist shall be considered a separate offense.
(Ord. 90-35, passed 10-8-90)

CHAPTER 154: MANUFACTURED AND MOBILE HOMES

Section

154.01 Permit fees for mobile and manufactured homes

§ 154.01 PERMIT FEES FOR MOBILE AND MANUFACTURED HOMES.

Mobile and manufactured home permit fees under this chapter shall be those rates adopted by the Council by resolution. The Council shall establish, and as considered necessary from time to time, change the fees by resolution after public hearing. (Ord. 95-46, passed 11-27-95; Am. Ord. 2004-01, passed 1-26-04)

CHAPTER 155: SIGN CODE

Section

General Provisions

155.01 Title
155.02 Purpose
155.03 Definitions
155.15 General provisions
155.16 Sign location
155.17 Signs allowed without a permit (exempt)
155.18 Exceptions for special signs
155.40 Reserved
155.50 Prohibited signs
155.60 Establishment of sign permits
155.70 Required information for a sign permit
155.80 Required conformance for non-conforming signs
155.90 Unsafe or illegal signs
155.91 Sign permit fees
155.92 Enforcement
155.93 Abatement of signs
155.94 Board of appeals and variances

GENERAL PROVISIONS

§ 155.01 TITLE.

This chapter shall be known and shall be cited as the *City of Seaside Sign Code*.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

§ 155.02 PURPOSE.

The purpose of this chapter is to provide minimum standards to safeguard life, health, property, and public welfare, including aesthetics, by regulating and controlling the size, design, construction, location, illumination and maintenance of all signs.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

§ 155.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-FRAME (SANDWICH BOARD). A temporary, double faced, collapsible sign, hinged at the top and open at the bottom for self support.

ALTERATION. Any change in the size, shape, method of illumination, position, location, structural feature, or supporting structure of a sign.

AREA. The area within the outer dimensions of a sign. In the case of a multiple-faced sign, the area of each face shall be included in determining sign area, except for double-faced signs placed no more than 24 inches back-to-back, only one face will be used to calculate the sign area.

AWNING. A temporary or permanent shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

BILLBOARD. A sign which advertises a business, commodity or activity which is sold, offered or conducted on premises other than those where such a sign is located.

BULLETIN BOARD, CHANGEABLE COPY SIGN, or *READER BOARD.* A sign of a permanent nature, but which accommodates changes in wording, indicating persons, events, products, or services offered on the premises of the sign location.

BUSINESS. A commercial or industrial enterprise.

BUSINESS FRONTAGE. The lineal front footage of a building or portion thereof devoted to a specific business or enterprise, and having an entrance/exit open to the general public.

BUSINESS PREMISES. A parcel of property or that portion thereof occupied by one tenant.

CANOPY. A non-movable roof-like structure attached to a building and does not include a reader board.

CONSTRUCTION SIGN. A sign stating the names, addresses or telephone numbers of those individuals or businesses directly associated with a construction project on the premises.

DIRECT ILLUMINATION. A source of illumination on the surface of a sign or from within a sign.

ELECTRONIC READER BOARD. A sign on which display can be altered electronically by using patterns of lights. This sign may be changed at intervals of no less than one and one-half seconds and may contain only one screen of text or graphic display. The illumination shall be by steady continuous light.

FLASHING SIGN. A sign incorporating intermittent electrical impulses to a source of illumination or revolving in a manner which creates the illusion of flashing, or which changes color or intensity of illumination. This includes, but is not limited to, all lights on or within a building or premises or vehicle on or off the premises for the purposes of attracting attention for commercial purposes. This definition does not include time, tide, and temperature signs or electronic reader board signs.

FRONTAGE. The single wall surface of a building facing a public right-of-way.

GROUND SIGN. A sign erected on a free-standing frame, mast or pole and not attached to any building. Also known as a "free-standing sign" or "pole sign".

INCIDENTAL SIGN. A sign intended primarily for the convenience and direction of the public on the premises which does not advertise but is informational only. Includes signs which denote the hours of operation, credit cards, service station gasoline price signs, entrance and exits, and signs required by law.

INDIRECT ILLUMINATION. A source of illumination directed toward a sign so that the beam of light falls upon the exterior surface of the sign.

ILLEGAL SIGN. A sign which is erected in violation of the Seaside Sign Code.

MARQUEE. A permanent roofed structure attached to and supported by the building and projecting over public property and includes a reader board.

MARQUEE SIGN. A sign which is painted on, attached to, or supported by a marquee.

NEIGHBORHOOD IDENTIFICATION. A sign located on a wall or fence at the entry point of a single-family subdivision comprising not less than two acres, or a sign identifying a multiple-family development of ten or more dwelling units.

NON-CONFORMING SIGN. An existing sign, lawful at the time of enactment of this ordinance, which does not conform to the requirements of this code.

PARCEL or *PREMISES.* A lot or tract of land under separate ownership, as depicted upon the county assessment rolls, and having frontage abutting on a public street.

POLITICAL SIGN. Any temporary sign which supports the candidacy of any candidate for public office or urges action on any other matter on the ballot of primary, general, or special elections.

PROJECTING SIGNS. Signs, other than wall signs, which are attached to and project from a structure or building face, usually perpendicular to the building face.

REAL ESTATE SIGN. A sign indicating that the premises on which the sign is located, or any portion thereof, is for sale, lease or rent.

ROOF SIGN. Any sign, other than painted signs, erected upon, against, or directly above a roof or top of or above the parapet of a building.

SIGN. Any permanent identification, symbol or device which is affixed directly or indirectly upon a building, vehicle, structure or land, that directs attention to a product, place, activity, person, institution or business, that is designed to be seen from a public street or walkway. This may include banners, flags, balloons or other devices.

SHOPPING CENTER or *BUSINESS COMPLEX.* Any building containing more than one business, or any group of buildings in close proximity to one another sharing parking, ownership and ingress or egress.

STREET FRONTAGE. That area of a building which fronts on a public street, road or highway.

TEMPORARY SIGN. A sign which is not permanently affixed to the ground or to a permitted structure. These include all devices such as banners, pennants, flags (not including flags of nations), searchlights, sandwich boards, sidewalk signs, curb signs, balloons or other symbols designed to attract attention.

TIME AND TEMPERATURE SIGN. A message display providing only time, tide, and/or temperature information to the public. This information can be updated at intervals of no less than one second.

WALL GRAPHICS. Any mosaic, mural or painting or graphic art technique or combination or grouping of mosaics, murals, or paintings or graphic art techniques applied, implanted or placed directly onto a wall or fence and containing no copy, advertising symbols, lettering, trademarks or other references to any product, service, goods or advertising anything sold on or off the premises.

WALL SIGN. A sign attached to or erected against or painted upon the wall of a building with the face in a parallel plane of the building wall.
(Ord. 88-2, passed 3-28-88; Am. Ord. 96-18, passed 10-28-96; Am. Ord. 2002-06, passed 6-11-02; Am. Ord. 2007-14, passed 10-8-07)

§ 155.15 GENERAL PROVISIONS.

(A) *Commercial and Industrial Zones.*

(1) Area: The total area of a sign for a business in a Commercial or Industrial Zone is limited to one and one-half square feet of area for each linear foot of front frontage of the business or business building. Sign area shall include all borders, trims, structures and component parts surrounding the display surface with a maximum of 200 square feet allowed.

(2) Corner lots: Buildings on corner lots may have signs on both streets, and each street frontage will be used for computing the sign area for that side. If one sign is visible from more than one street, the area can be deducted from either frontage.

(3) Lettering limitations: Readerboard lettering shall not extend by any means above the roof or the readerboard.

(4) Roof signs must comply with the following provisions:

(a) The signs must be attached to an exterior facade such that it appears to be an integrated part of the exterior wall of the building.

(b) The sign area may not extend more than eight feet above the apparent roof line of the building that is visible from the street the sign faces; however, no sign may exceed the allowable height of the building within the district in which it is located.

(c) The sign area on the facade cannot cover more than 50% of the total facade area.

(B) *General Residential Zones.*

(1) Single-family and duplex residential uses shall be allowed a sign not exceeding two square feet.

(2) Apartments and non-residential uses shall be allowed a sign not exceeding 20 square feet.

(C) *Specific Residential Zones.*

(1) Resort residential: All provisions applicable to Commercial and Industrial Zones shall apply to the Resort Residential Zone; however, the maximum allowable signage shall be limited to 100 square feet.

(2) Residential commercial: Non-residential uses in the Residential Commercial Zone which front on Roosevelt Drive are permitted one and one-half square feet of sign area for each linear foot of business street frontage with a maximum of 200 square feet. No more than 50 square feet of sign area may face streets other than Roosevelt.

(D) *Open Space, Aquatic and EFU Zones.*

(1) Signs within the OPR zone shall not exceed 40 square feet.

(2) Signs within Aquatic and EFU Zones shall not exceed 40 square feet and they require a public hearing and approval of a conditional use by the Planning Commission in accordance with the provisions of Article 6 and Article 10 of the Seaside Zoning Ordinance.
(Ord. 88-2, passed 3-28-88; Am. Ord. 96-18, passed 10-28-96; Am. Ord. 2002-06, 6-11-02; Am. Ord. 2007-14, passed 10-8-07)

§ 155.16 SIGN LOCATION.

(A) *Signs projecting into street right-of-ways:* Unless otherwise provided under this chapter, signs may project over a public right-of-way from the face of the building to which they are attached to a maximum of two feet and must be located eight feet or more above grade. Signs shall not project within two feet of the curb line.

(B) *Signs projecting into alleys:* No sign or sign structure shall project more than 12 inches into any public alley and must be a minimum height of 14 feet above alley grade.

(C) *Access restricted locations:* No sign or sign structure shall be erected in such a manner that any portion of its surface or support will interfere in any way with the free use of any fire escape, exit or standpipe.

(D) *Code restricted locations:* No sign shall obstruct any openings to such an extent that light or ventilation is reduced to a point below that required by the building code.

(E) *A-Frame or sandwich board signs*: These signs are not permitted more than ten feet from the entrance of a building. They must be located entirely on the property with no more than one sign per business regardless of the permitted area allowed. The sign area is limited to no more than ten square feet per face. Only one sign is permitted per business.

(F) Signs erected within five feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics.

(G) *Marquees*: These structures, permitted under the building code, are not considered part of the sign area; however, any lettering area permanently placed on the face of the marquee must be deducted from the total allowed sign area.

(H) *Awning signs*: Signs incorporated into the non-ridged cover of a permitted awning or signs which do not project below the face of the awning and the support frame may project more than two feet into a street right-of-way. These signs are subject to a public hearing and approval of a conditional use by the Planning Commission in accordance with the provisions of Article 6 and Article 10 of the Seaside Zoning Ordinance. All signage will be counted against the sign area prescribed in § 155.15.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

§ 155.17 SIGNS ALLOWED WITHOUT A PERMIT (EXEMPT).

The following signs are not regulated by this chapter unless otherwise stipulated:

(A) Signs placed by the city or other informational signs placed by the Oregon State Highway Division.

(B) Flags and insignia of national, state or local governments.

(C) Signs of a temporary nature located completely within a commercial building.

(D) Temporary political signs not exceeding ten square feet, provided the signs are erected no more than 30 days prior to and removed within ten days following the election for which they are intended. If the sign is not removed within the allotted time period the campaign's treasurer will be subject to penalties listed in § 155.92. (Signs must be located on private property.)

(E) Temporary, non-illuminated real estate (no more than one per tax lot) or construction and subdivision signs not exceeding six square feet in residential zones or 32 square feet in commercial and industrial zones. Real estate signs must be removed within 15 days from the sale, lease or rental of the property. Construction and subdivision signs must be removed within seven days of completion of the project. (Signs must be located on private property.)

(F) Name plates indicating the name, address or profession of the occupant, not exceeding one square foot.

(G) Temporary, off-premise, directional, open house, real estate signs, provided such signs do not exceed six square feet in size, and are located on private property, and are up only during the actual open-house hours.

(H) Signs painted, attached, or otherwise incorporated on the vertical portion of an awning on a commercial building but not exceeding eight-inch lettering on the border.

(I) Banners, but the square footage will be computed as part of the allowed signage.

(J) Open signs, or parking directional signs, not exceeding one square foot in size.

(K) Bank card signs, gas prices and similar signs not exceeding six square feet in a Commercial-Industrial Zone, limited to one sign per street frontage.

(L) Minor maintenance and repairs to existing signs or for changes in sign copy for conforming signs.

(M) Signs for directing traffic flow where such sign(s) are not visible from a public right-of-way or approved private road/right-of-way. Visibility must be obstructed by a permanent structure rather than vegetation.
(Ord. 88-2, passed 3-28-88; Am. Ord. 88-25, passed 12-21-88; Am. Ord. 91-16, passed 6-24-92; Am. Ord. 96-18, passed 10-28-96; Am. Ord. 2002-06, passed 6-11-02)

§ 155.18 EXCEPTIONS FOR SPECIAL SIGNS.

(A) Allowed for conditionally permitted uses authorized by the Planning Commission exclusive of zoning. The Planning Commission may authorize additional signage for uses authorized under a conditional use permit in accordance with Article 10 of the Seaside Zoning Ordinance. Signage for these uses may be permitted in excess of the area permitted under § 155.15 of this subchapter. Although these signs are normally approved at the time the conditional use is authorized, the following provisions apply to existing conditionally permitted uses without further review by the Planning Commission:

(1) RV and mobile home parks: In all existing RV and mobile home parks, the maximum size of a sign will be 32 square feet.

(2) Emergency service provider: Signs identifying the name and location of emergency health care providers that provide service on the site. Such signs shall not exceed one and one-half square feet of 2005 S-6 area for each linear foot of frontage of the building or 100 square feet in sign area which ever is least. Sign area shall include all borders, trims, structures and component parts surrounding the display surface.

(3) Schools, parks and recreational facilities.

(B) Murals or wall graphics: No wall graphics shall be permitted without Planning Commission approval.

(C) Temporary signs for new businesses or grand openings:

(D) The Building Official can issue a permit for a temporary sign for new businesses or for grand openings or other special events for a period not to exceed seven days; however, the permit can be extended to a maximum of 30 days. Temporary signs beyond 30 days require Planning Commission approval.
(Ord. 88-2, passed 2-38-88; Ord. 96-18, passed 10-28-96; Am. Ord. 2002-06, passed 6-11-02)

§ 155.40 [RESERVED.]

§ 155.50 PROHIBITED SIGNS.

The following signs are prohibited:

(A) Flashing signs.

(B) Unofficial signs which purport to be, are an imitation of, or resembles an unofficial traffic sign or signal, and which attempt to direct the movement of traffic or hide from view any official traffic sign or signal.

(C) Signs or portion thereof obstructing any fire escape, stairway or standpipe; interferes with human exit through any window of any room located above the first floor of any building; obstructs any door or required exit from any building; or obstructs any required light or ventilation.

(D) A sign or portion thereof extending beyond any property line of the premises on which such sign is located unless specifically permitted under this chapter.

(E) Roof signs projecting above the roof peak unless specifically permitted under this chapter.

(F) Signs painted directly upon the roof surface.

(G) Signs placed in any zone that would block vehicular vision clearance as defined in the Zoning Ordinance of Seaside unless the top of the sign does not extend more than two and one-half feet above the curb line or street center line if no curb exists.
(Ord. 88-2, passed 3-28-88; Am. Ord. 88-25, passed 12-21-88; Am. Ord. 96-18, passed 10-28-96; Am. Ord. 2002-06, passed 6-11-02; Am. Ord. 2007-14, passed 10-8-07)

§ 155.60 ESTABLISHMENT OF SIGN PERMITS.

A sign permit is required in each of the following instances.

(A) Upon the erection of any new sign except exempted signs.

(B) To alter an existing sign.

(C) To erect a temporary sign for a new business or grand opening subject to § 155.18 but no fee will be required.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

§ 155.70 REQUIRED INFORMATION FOR A SIGN PERMIT.

For the purposes of review by the Building Official, a drawing to scale shall be submitted which indicates the location of all signs and sign structures (plot plan), material, color, texture, dimensions, shape, relation and attachment to building and other structures, structural elements of the proposed sign,

Seaside - Land Usage

and the size and dimensions of any other signs located on the applicant's building or property.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

§ 155.80 REQUIRED CONFORMANCE FOR NON-CONFORMING SIGNS.

All existing A-frame or sandwich board signs shall conform to this chapter within one year of the effective date of Ordinance 2002-06. Failure to comply within the stated time period will be justification for the City of Seaside to order the sign removed. If the sign owner fails to bring the sign into compliance or remove it, the city shall remove the sign, and all costs incurred, not paid within 30 days of billing, shall be collected from the business owner in any manner prescribed by law.
(Am. Ord. 2002-06, passed 6-11-02)

§ 155.90 UNSAFE OR ILLEGAL SIGNS.

If the Building Official finds that a sign has been erected without permit or is unsafe, or a sign permit has been issued in violation of this chapter, he shall cause the sign to be removed as follows:

(A) If in the opinion of the Building Official, a sign is determined to cause an immediate danger to life, limb, or property, the Building Official must first attempt to find the person responsible for the sign and require its immediate removal or repair. If the responsible person(s) are unable to be located, the Building Official shall cause the sign to be removed or repaired and charge all costs to the responsible parties in addition to the penalties prescribed in § 155.92.

(B) The Building Official shall be given written notice to the permitee or owner of any sign erected or established under a sign permit but carried out in violation of the permit or this sign ordinance, that the sign must be removed or altered within seven days. Failure to remove or alter said signs as directed shall subject the permitee or owner to the penalties prescribed in this title.
(Am. Ord. 2002-06, passed 6-11-02)

§ 155.91 SIGN PERMIT FEES.

Fees to be paid prior to the erection, alteration, or structural repair (excluding minor maintenance) of a sign.

0 - 25 square feet $50

26 square feet and over $100

The fee for any sign which is erected without a sign permit shall be double the regular sign fee.

Plan check fee, equal to 65% of the sign permit fee, shall be required.
(Ord. 88-2, passed 3-28-88; Am. Ord. 93-32, passed 9-13-93; Am. Ord. 96-13, passed 4-22-96; Am. Ord. 2002-06, passed 6-11-02)

§ 155.92 ENFORCEMENT.

The Building Official is hereby authorized and directed to enforce all the provisions of this code. For such purpose he shall have the powers of a law enforcement officer.

A person violating a provision of this chapter shall, upon conviction, be punished by a fine of not more than $150. A violation of this chapter shall be considered a separate offense for each day the violation continues.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

§ 155.93 ABATEMENT OF SIGNS.

(A) *Abandoned signs.* All signs pertaining to businesses or occupants whose products or services have ceased to be offered to the public on the premises shall be removed within 30 days.

(B) *Abatement of nuisance signs.* The following signs are hereby declared a public nuisance and shall be removed or the nuisance abated within 30 days.

(1) Illegal signs.
(Am. Ord. 2002-06, passed 6-11-02)

§ 155.94 BOARD OF APPEALS AND VARIANCES.

To provide for reasonable interpretation of this chapter, and in certain instances where this chapter will produce hardship, a variance may be granted. The sign owner shall demonstrate that the situation is unique and that by complying with the ordinance he will suffer substantial hardship. The owner cannot be granted any special privilege which would result in advantages over his neighbors.

The Planning Commission shall hear all appeals and requests for variances, and a variance from the terms of this chapter shall not be granted by the Planning Commission unless and until all of the following conditions are met:

(1) A public hearing is held in the manner proscribed in the Seaside Zoning Code.

(2) The sign owner must demonstrate by written application that all of the following circumstances exist.

(a) That exception or extraordinary circumstances apply to the property or business which do not apply generally to other properties or businesses in the vicinity.

(b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties or businesses in the same district under the terms of this chapter.

(c) That the variance requested is the minimum variance which will make possible the reasonable use of the property and still meet the intent of the ordinance.

(d) An application for a sign variance shall be accompanied by a filing fee of $50.

NOTE: Off-premises signs visible from Roosevelt/Highway 101 need a state permit.
(Ord. 88-2, passed 3-28-88; Am. Ord. 2002-06, passed 6-11-02)

CHAPTER 156: SUBDIVISIONS

Section

156.01 Subdivision regulations adopted by reference

§ 156.01 SUBDIVISION REGULATIONS ADOPTED BY REFERENCE.

The subdivision and land partitioning regulations as approved and recommended by the Planning Commission are hereby adopted by reference and made a part of this code the same as if set forth in full herein. Complete copies of the subdivision regulations are on file at City Hall and are available for public inspection.
(Ord. 74-36, passed 1-13-75; Am. Ord. 84-07, passed 3-26-84; Am. Ord. 85-08, passed 3-25-85; Am. Ord. 90-26, passed 8-27-90; Am. Ord. 93-31, passed 9-13-93; Am. Ord. passed 94-33, passed 1-9-95; Am. Ord. 95-15, passed 3-13-95; Am. Ord. 96-44, passed 9-23-96; Am. Ord. 96-45, passed 9-23-96)

CHAPTER 157: URBAN RENEWAL PLAN

Section

157.01 Adoption of Urban Renewal Plan by reference

§ 157.01 ADOPTION OF URBAN RENEWAL PLAN BY REFERENCE.

The Greater Seaside Urban Renewal Plan, adopted by Ordinance 96-36, is hereby adopted by reference and made a part of this code the same as if set forth in full herein. Complete copies of the Urban Renewal Plan are on file at City Hall and are available for public inspection.
(Ord. 96-36, passed 8-26-96; Am. Ord. 98-12, passed 6-9-98; Am. Ord. 98-11, passed 6-22-98; Am. Ord. 98-19, passed 12-28-98; Am. Ord. 2001-03, passed 4-23-01; Am. Ord. 2006-05, passed 5-8-06)

CHAPTER 158: ZONING

Section

158.01 Zoning ordinance adopted by reference

§ 158.01 ZONING ORDINANCE ADOPTED BY REFERENCE.

The document attached to Ordinance 83-10 as Exhibit A and entitled *City of Seaside Zoning Ordinance No. 83-10*, is hereby adopted by reference and made a part of this code the same as if set forth in full herein. Complete copies of the zoning ordinance are on file at City Hall and are available for public inspection.

(Ord. 83-10, passed 6-27-83; Am. Ord. 83-30, passed 12-12-83; Am. Ord. 83-31, passed 1-9-84; Am. Ord. 84-06, passed 3-26-84; Am. Ord. 84-21, passed 6-25-84; Am. Ord. 84-23, passed 9-10-84; Am. Ord. 84-25, passed 9-10-84; Am. Ord. 85-02, passed 2-26-85; Am. Ord. 85-03, passed 2-11-85; Am. Ord. 85-24, passed 7-8-85; Am. Ord. 85-33, passed 9-23-85; Am. Ord. 85-35, passed 9-23-85; Am. Ord. 85-41, passed 10-28-85; Am. Ord. 85-46, passed 10-28-85; Am. Ord. 86-10, passed 4-14-86; Am. Ord. 86-13, passed 6-10-86; Am. Ord. 86-19, passed 7-15-86; Am. Ord. 87-07, passed 5-27-87; Am. Ord. 87-08, passed 5-27-87; Am. Ord. 87-23, passed 9-29-87; Am. Ord. 87-27, passed 12-14-87; Am. Ord. 88-2, passed 3-28-88; Am. Ord. 88-18, passed 10-24-88, passed; Am. Ord. 88-24, passed 12-12-88; Am. Ord. 89-05, passed 3-12-89; Am. Ord. 89-18, passed 8-29-89; Am. Ord. 89-23, passed 12-12-89; Am. Ord. 89-27, passed 10-24-89; Am. Ord. 91-36, passed 2-10-92; Am. Ord. 93-02, passed 5-10-93; Am. Ord. 93-23, passed 6-28-93; Am. Ord. 93-30, passed 9-13-93; Am. Ord. 93-33, passed 9-27-93; Am. Ord. 93-39, passed 12-13-93; Am. Ord. 94-11, passed 5-23-94; Am. Ord. 94-12, passed 5-23-94; Am. Ord. 94-17, passed 9-26-94; Am. Ord. 94-24, passed 8-8-94; Am. Ord. 94-25, passed 8-8-94; Am. Ord. 94-26, passed 10-10-94; Am. Ord. 94-32, passed 12-12-94; Am. Ord. 94-34, passed 1-9-95; Am. Ord. 95-01, passed 1-23-95; Am. Ord. 95-18, passed 3-13-95; Am. Ord. 95-25, passed 6-12-95; Am. Ord. 95-33, passed 8-14-95; Am. Ord. 95-49, passed 11-27-95; Am. Ord. 95-51, passed 1-8-96; Am. Ord. 95-52, passed 1-8-96; Am. Ord. 96-04, passed 3-25-96; Am. Ord. 96-12, passed 4-22-96; Am. Ord. 96-14, passed 4-22-96; Am. Ord. 96-19, passed 6-10-96; Am. Ord. 96-20, passed 6-10-96; Am. Ord. 96-21, passed 5-13-96; Am. Ord. 96-26, passed 7-22-96; Am. Ord. 96-28, passed 7-22-96; Am. Ord. 96-37, passed 9-23-96; Am. Ord. 96-38, passed 9-23-96; Am. Ord. 96-39, passed 9-23-96; Am. Ord. 96-42, passed 9-23-96; Am. Ord. 99-02, passed 3-9-99; Am. Ord. 99-05, passed 4-12-99; Am. Ord. 99-11, passed 6-14-99; Am. Ord. 2000-01, passed 7-24-00; Am. Ord. 2000-09, passed 11-27-00; Am. Ord. 2001-14, passed 11-13-01; Am. Ord. 2001-15, passed 1-15-02; Am. Ord. 2003-06, passed 7-28-03; Am. Ord. 2003-09, passed 9-22-03; Am. Ord. 2005-02, passed 5-23-05; Am. Ord. 2011-03, passed 6-27-11; Am. Ord. 2011-04, passed 3-14-11)

CHAPTER 159: ABATEMENT OF DANGEROUS BUILDINGS

Section

159.01 Abatement of dangerous buildings adopted by reference
159.02 Assessment of penalties

§ 159.01 ABATEMENT OF DANGEROUS BUILDINGS ADOPTED BY REFERENCE.

The document attached to Ord, 2002-01 and entitled *City of Seaside Code for the Abatement of Dangerous Buildings Ordinance 2002-01* is hereby incorporated by reference and made a part hereof the same as if set forth in full herein. Complete copies of the Code for the Abatement of Dangerous Buildings are on file at City Hall and are available for public inspection.
(Ord. 2002-01, passed 2-26-02)

§ 159.02 ASSESSMENT OF PENALTIES.

(A) *Administrative civil penalty.* Any violation of this chapter is subject to an administrative civil penalty not to exceed $5,000 for a single violation, and shall be processed in accordance with the procedures set forth in this code. Each additional day that a violation of a provision of this chapter exists constitutes a separate violation with a civil penalty not to exceed $1,000.

(B) *Public nuisance.* In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance, and may be abated by any of the procedures set forth under law.

(C) *Penalties and remedies not exclusive.* The penalties and remedies provided in this section are not exclusive, and are in addition to other penalties and remedies available to the city under any ordinance, statute or law.

(D) *Authority to impose an administrative penalty.*

(1) Upon a determination by the Building Official, any responsible person, firm, corporation or other entity however organized has violated any provisions of this chapter may be issued an administrative civil penalty.

(2) Upon a determination by the Building Official that any responsible person, firm, corporation or other entity however organized has violated any provisions of this chapter; the Building Official may issue a notice of civil violation and impose upon the violator, and/or any other responsible person, an administrative civil penalty. For purposes of this division, a ***RESPONSIBLE PERSON*** includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, this may include the owner or owners as well.

(3) Prior to issuing a citation or an administrative civil penalty, the Building Official may pursue reasonable attempts to secure voluntary correction.

(4) Any notice of a civil violation that imposes an administrative civil penalty under this section shall either be served by personal service or shall be sent by registered or certified mail.

(a) Any such notice served by mail shall be deemed received, for purposes of any time

computations hereunder, three days after the date if mailed to an address within this state, and seven days after the date if mailed to an address outside this state.

(b) Every notice shall include:

1. Reference to the particular code provision, ordinance number or rule involved;

2. A short and plain statement of the matters asserted or charged;

3. A statement of the amount of the penalty or penalties imposed; and

4. A statement of the party's right to appeal the civil penalty to the City Manager; a description of the process the party may use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

(5) Any person, firm, corporation or other entity however organized that is issued a notice of civil penalty may appeal the penalty to the City Manager.

(6) A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager within ten days.

(7) Each day the violator fails to remedy the code violation shall constitute a separate violation.

(8) The civil penalty authorized by this section shall be in addition to assessments or fees for any costs incurred by the city in remediation, cleanup or abatement, and any other actions authorized by law.

(E) *Unpaid penalties.*

(1) Failure to pay an imposed administrative civil penalty pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code.

(a) Such time may be extended as determined by the City Manager. Each day the penalty is not paid after this deadline shall constitute a separate violation.

(b) The city is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by law.

(2) In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses; issuance of a stop work order, if applicable; or revocation or suspension of any issued permits or certificate of occupancy.
(Ord. 2010-02, passed 4-26-10)

CHAPTER 160: WRITTEN DEMANDS FOR COMPENSATION UNDER BALLOT MEASURE 37

Section

160.01 Title
160.02 Purpose
160.03 Definitions
160.04 Non-mandatory process: Pre-filling and settlement conference
160.05 Substantive triggers for a Measure 37 "Written demand for compensation"
160.06 Substantive contents of "written demand for compensation"; filing
160.07 Staff evaluation of the validity of the written demand for compensation
160.08 Written demand review notice
160.09 Hearing before the City Council
160.10 City Council formal action
160.11 Terms of compensation award
160.12 Terms of waiver of modification
160.13 Ex parte contacts, conflict of interest and bias
160.14 Attorney fees on delayed compensation
160.15 Availability of ~~claims by others~~ funds to pay claims
160.16 Payment of claims by others
160.17 Applicable state law, no independent rights created by this chapter
160.18 Private cause of action
160.19 No legal defense created

§ 160.01 TITLE.

This chapter shall be referred to as the "Measure 37 Claims chapter".
(Ord. 2004-09, passed 1-10-05)

§ 160.02 PURPOSE.

The purpose of this chapter is to establish the substantive requirements for a "written demand for compensation" under Measure 37, and other substantive requirements, in order that the merits of claims under Measure 37 can be adequately evaluated; to provide procedures for the open, fair, just and expeditious evaluation of Measure 37 claims by the city; and to protect the citizens of the city from the detrimental effects to public health, safety and welfare that would result from the granting of non-meritorious claims, and to preserve and protect limited public funds . The provisions of this chapter apply to those demands for just compensation that are or may be allowed under Measure 37, enacted by the electors of the State of Oregon as a statute of the State of Oregon on November 2, 2004.
(Ord. 2004-09, passed 1-10-05)

§ 160.03 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPRAISAL. A written statement of an opinion of the value of real property prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, pursuant to ORS Chapter 674 and who holds the applicable written certification for the type of appraisal (e.g. MAI qualification for commercial or industrial property).

CITY ADMINISTRATOR. The City Manager, or the City Manager's designee.

DEMAND or *WRITTEN DEMAND.* The "written demand for compensation" required to be made by an owner of property under ORS Chapter 197 as amended by Ballot Measure 37 and as required by the substantive provisions of this chapter.

DIRECTOR. The City Planning Director, or the Director's designee.

ENACT. The effective date of the adoption of a land use regulations by ordinance of the city, pursuant to ORS 197.610 and the procedures outlined in the City Charter. For purposes of this chapter, a new land use regulation enactment means the regulation has an effective date after the effective date of Measure 37 (December 2, 2004).

ENFORCE. To compel conformity with a land use regulation by the issuance of a final order in a contested judicial or quasi judicial proceeding; to issue a final decision denying a request to use private real property, or interest in real property, for a stated purpose through the application of a land use regulation as an approval criteria. Consultations with city staff, pre-application conferences, and/or advisory or warning letters from city staff, and the like, do not constitute enforcement or application of a land use regulation. No enforcement shall be deemed to have occurred merely because the current owner has submitted a written demand for just compensation to the city and the demand for just compensation was denied.

EXEMPT LAND USE REGULATION.

(1) A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, including offenses declared to be nuisances by the ordinances of the city, and the criminal laws of the State of Oregon and the City of Seaside;

(2) A regulation restricting or prohibiting activities for the protection of public health and safety, including, but not limited to: fire and building codes; health and sanitation regulations; solid or hazardous waste regulations; a regulation, ordinance, policy, standard or specification that regulates construction and performance standards for water, wastewater, storm water, transportation facilities, recreational facilities, public utility systems and pollution control regulations;

(3) A regulation required to comply with federal law, including federal statutes and case authority;

(4) A system development charge;

(5) A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(6) A regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first. In order for a present owner to relate back to the date of acquisition by a family member, the chain of title between present owner and family member must be unbroken by non-family members or interests.

FAIR MARKET VALUE OF THE PROPERTY. The minimum value or amount which could reasonably be expected to be paid for the purchase of a current owner's real property or interest in real property, by an informed buyer, acting without compulsion, to an informed seller, also acting without compulsion, in an arms-length transaction.

FAMILY MEMBER. The wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the present owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

JUST COMPENSATION/COMPENSATION. A value or amount equal to the reduction in the fair market value of real property that is the direct result of the enactment and enforcement of a land use regulation which provides the basis for a written demand for compensation, as of the date a current owner makes the demand for just compensation. A reduction of the fair market value of property shall exclude any reduction resulting from events, actions or occurrences other than the restriction of uses permitted by the land use regulation, and include, but are not limited to, reductions resulting from pollution (e.g. brown fields), depreciation, changes in local, state or national economic conditions, failures by the current owner to gainfully use the real property, lack

of public services to the real property, reductions in fair market value resulting from the existence of an historically or commonly recognized public nuisance or private nuisance on or about the property or surrounding property, changes in the value of the real property resulting from fluctuations in the real estate market, or conditions on surrounding property.

LAND USE REGULATION. Any comprehensive plan, zoning ordinance, subdivision, land partition ordinance, or transportation ordinance of the city. The term *LAND USE REGULATION* does not include "exempt land use regulations" as defined in this chapter.

NEW LAND USE REGULATION. Any "land use regulation", as defined herein that has an effective date after the effective date of Measure 37 (December 2, 2002).

OWNER/CURRENT OWNER/PRESENT OWNER/CLAIMANT. The present owner of the real property, or any interest therein, that is the subject of the written demand for compensation. The owner must be a person who, as reflected in the deeds records of Clastop County, Oregon, is either the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property including also, under the terms of the measure, all entities who represent all present interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders as reflected in recorded or unrecorded written instruments conveying or creating such property interests.

PROPERTY. Any private real property or interest therein. It includes only a single parcel or contiguous parcels in unified ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

REDUCTION IN VALUE. The difference in the fair market value of the property before and after enactment or enforcement of a land use regulation.
(Ord. 2004-09, passed 1-10-05)

§ 160.04 NON-MANDATORY PROCESS: PRE-FILING AND SETTLEMENT CONFERENCE.

(A) Before submitting a demand for compensation, the owner is encouraged to schedule and attend a pre-filing conference with the Director to discuss the demand. The pre-filing conference shall follow the procedure set forth by the Director and may include planning, engineering or other appropriate staff members. There will be no fees required for the pre-filing conference and the costs of the conference will not be billed in any cost accounting.

(B) To schedule a pre-filing conference, the owner must contact the Director's office and make an appointment for the conference. The pre-filing conference is for the owner to provide an oral summary of the owner's demand to the Director, and for the Director and staff to provide general information to the owner about the substantive and procedural requirements for processing the claim, including applicable land development regulations that may affect the demand. Copies of applicable ordinances will be available for inspection and copies will be provided at the fees established pursuant to the public records policy of the city. The pre-filing conference is not for the interrogation of city employees by counsel for the claimant or by the claimant. Public records law does not require employees to answer questions and inappropriate use of this informal conference will not be tolerated.

(C) The pre-filing conference shall have the character of a settlement conference; statements made by representatives of the city and owner at the pre-filing conference are not, binding on either party. Neither the Director nor other staff is authorized to settle any demand at a pre-filing conference. Any omission or failure by staff to recite relevant applicable regulations to an owner will not constitute a waiver or admission by the city.
(Ord. 2004-09, passed 1-10-05)

§ 160.05 SUBSTANTIVE TRIGGERS FOR A MEASURE 37 "WRITTEN DEMAND FOR COMPENSATION".

(A) *Enactment subject to demands.* The owner of real property may submit a "written demand for compensation" under Measure 37 if the city enacts (as defined herein) a new land use regulation, other than an exempt regulation, and the new land use regulation applies to the current owner's property, or any interest therein, and the new land use regulation was enacted after the current owner or, in a proper case, a family member of the owner, acquired the real property, and the new land use regulation restricts the use of the real property and the restriction imposed by the new land use regulation has the effect of causing a reduction in the fair market value of the real property.

(B) *Enforcement subject to demands.* The owner of real property may submit a "written demand for compensation" under Measure 37 if the city enforces (as defined herein) a land use regulation, other than an exempt regulation, against the property and the land use regulation was enacted after the date the current owner, or, in a proper case, a family member of the owner, acquired the real property and the land use regulation restricts the use of the real property and the restriction imposed by the land use regulation has the effect of causing a reduction in the fair market value of the real property.

(C) *Settlement prior to enforcement/enactment.* Nothing in this subsection shall be deemed to prevent the city from engaging in any action that would result in the resolution of a potential claim under Measure 37 prior to the date the land use regulation is enacted or enforced against the current owner's real property. Any current owner who knowingly submits a request or application with the intent of establishing the basis for a Measure 37 claim shall make that intention known at the time of the submittal.
(Ord. 2004-09, passed 1-10-05)

§ 160.06 SUBSTANTIVE CONTENTS OF "WRITTEN DEMAND FOR COMPENSATION"; FILING.

(A) A "written demand for compensation" made pursuant to Measure 37 and the requirements of this chapter shall be submitted in person, or by registered or certified mail to: City of Seaside City Hall, Attn: Planning Director, Seaside, OR 97138.

(B) No "written demand for compensation" shall be deemed submitted until all materials required by § 160.06(C) have been provided to the Director by the current owner(s). The Director shall advise the owner in writing, as soon as practicable, of material omitted from the demand. A notice of completion of submission shall be sent to the current owner(s) at the time the Director determines the "written demand for compensation" has been deemed submitted. The 180-day period required to pass prior to any cause of action being available to owner in Clatsop County Circuit Court specified in Measure 37, shall only commence on the date the Director deems the written demand complete, and accepts it for filing. The Director shall note the date of completeness and filing, in writing, upon the demand. Nothing herein shall be interpreted as prohibiting the Director from processing an incomplete demand, provided the Director believes that it will serve the best interests of the public to forward the demand to the City Council so they can receive public input on the demand and formally act on the demand. Processing an incomplete demand does not constitute acknowledgement or consent to the running of the time for filing a claim in Circuit Court.

(C) A "written demand for compensation" made pursuant to Measure 37 and the substantive implementing requirements of this chapter shall include all of the following documents and supporting materials:

(1) *An official demand form.* The completed demand form shall be executed by the sole fee simple owner or by all joint owners, as applicable. The demand form shall include a sworn statement, under penalty of perjury and false swearing that the information on the demand form and information submitted in support of the demand is true and

correct. If an attorney or other person completes or prepares the demand form and supporting materials, that person shall also sign the sworn statement on the demand form. The demand form shall be created by the Director and available at the Community Development Department, 1387 Avenue U, Seaside, Oregon.

(2) *Written consent of all interest holders.* Measure 37 defines owner as including the present holder of "any interest" in the property. An owner, as defined in the act, is the entity due compensation. Therefore, all interest holders, (e.g. mortgage holders, other security interest holders, lien holders, and easement or leasehold interests), must sign the demand form or execute separate written consents to the fee simple owner's compensation demand and/or regulation waiver request.

(3) *Demand filing fee.* A filing fee may be established by resolution of the City Council. Once established, it must be submitted with the written demand for compensation. All city staff and consultant time spent on a request, in addition to other costs, shall be calculated and reported to the City Administrator. A Measure 37 claimant with a valid claim will have the fee returned if compensation is paid or credited toward future land use or permit applications if a waiver or modification is granted. A Measure 37 claimant with an invalid claim will have the full cost of review of the validity of their claims; including staff, consultant, notice, and hearing costs deducted from the filing fee. Any remaining balance will be reimbursed to the claimant.

(4) *Identification of owners.* Identification of the name, physical address, street address, mailing address and telephone number of all the owner(s).

(5) *Proof of ownership.* Copies of all deeds and other instruments conveying ownership in the affected real property to the current owner(s) shall be submitted. For a Measure 37 claim based on family ownership, proof that the prior owner was a family member of the current owner.

(6) *Property description.* The written demand shall concern a single identified property. The demand shall include a legal description of the property as well as a common address for the property.

(7) *Title report.* A title report issued not more than 30 days prior to the submission of the written demand for compensation, which shall include the title history, the date the current owner acquired title to the real property, the interests held by any other current owners and the dates those interests were acquired, an identification of any restrictions on use of the real property unrelated to the land use regulation against which just compensation is sought, including, but not limited to, any restrictions established by covenants, conditions and restrictions; easements, or other private restrictions, or other regulations, restrictions, leases or contracts. If "family member" status is claimed, it must also be addressed in the title report.

(8) *Copy of existing regulation.* A copy of the land use regulation, or portion thereof, the owner claims restricts the use of the property, or interests therein, and that has had the effect of reducing the fair market value of the property, including the date the owner claims the land use regulation was first enacted, enforced or applied to the property.

(9) *Evidence of enforcement.* Copies of any final land use actions, development applications, final enforcement actions or other relevant applications for permits that have previously been filed in connection with the property and the final action taken. Any such actions that represent the required "enforcement" of the land use regulation that supports making a written demand must be described and identified as such.

(10) *Copy of prior regulations.* A copy of the land use regulation applicable to the property when the claimant became the owner of the property. In the case of multiple owners or interest owners, the land use regulation in effect when each of them became owners.

(11) *Supported demand value.* The amount of the alleged reduction in fair market value of the real property that the current owner believes is the amount of just compensation, supported by an appraisal based

on the use or uses to which the current owner can and intends to put the real property. The appraisal shall indicate the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after enactment, enforcement or application of the land use regulation in question, and explaining the rationale and factors leading to that conclusion. At a minimum, the demand value shall acknowledge the increased availability of other properties for the proposed uses, after passage of Measure 37, and shall not solely rely upon pre-Measure 37 market values for comparison (where land use regulations operated to preserve values and fewer sites were available).

(12) Comprehensive statement of relief sought. A comprehensive statement of the relief sought by the owner shall be provided. The owner shall consolidate all demands for compensation existing for the subject property at the time of the demand. The claimant shall specifically identify all city land use regulations impacting the request and the associated amount of damage and/or relief sought from the regulation. Failure to include written demands as to specific regulations existing at the time of the comprehensive filing shall be considered waiver of those claims.

(D) A "written demand for compensation" made pursuant to Measure 37 and the substantive implementing requirements of this chapter may also include the following supporting materials which would assist in the review:

(1) *Other.* Any other facts the current owner believes are material to the evaluation and assessment of claim for just compensation.

(2) *Narrative.* The owner may provide a narrative describing the history of the owner and/or family member's ownership in the property, the history of the relevant land use regulations applicable to the demand, and how the enactment, enforcement or application of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

(3) *Listing of nearby owned property.* Identify any other property owned by the owner(s) within 300 feet of the boundary of the property.

(4) *Nearby property owner information.* List the names and addresses of all owners of property within 100 feet of the property.

(5) *A statement regarding exceptions.* A statement by the owner making the demand of why the land use regulation in question is not an "exempt land use regulation" as defined herein.

(6) *A statement regarding date of acquisition of the property by the owner.* The owner may provide a narrative statement to explain how the subject land use regulation was enacted prior to or after the date of the acquisition of the property by the owner, or prior to or after acquisition by a family member of the owner who owned the subject property prior to the acquisition or inheritance by the owner.

(7) *Statement of the owner's understanding of any modification, removal or non-application of land use regulation.* The owner may provide a narrative statement explaining their understanding of what effect a modification, removal or non-application of the land use regulation would have on the potential development of the property, stating the greatest degree of development that the owner believes would be permitted on the property if the identified land use regulation were modified, removed or not applied.

(8) *Site plan and drawings.* A copy of the site plan and drawings related to the expected use of the property should the land use regulation be modified, removed or not applied in a readable/legible 8 1/2 inch by 11 inch format.
(Ord. 2004-09, passed 1-10-05)

§ 160.07 STAFF EVALUATION OF THE VALIDITY OF THE WRITTEN DEMAND FOR COMPENSATION.

After the current owner's demand for just compensation is deemed submitted, the claim shall be forwarded to the City Administrator, City Attorney,

Public Works Director and such other staff members the Director determines appropriate. Staff shall review and evaluate the demand and may make recommendations and give advice to the Director as to whether the written demand meets the requirements of Measure 37, and this implementing chapter, as a valid claim for compensation. The Director, after taking into account the advice and recommendations of the individuals reviewing the demand shall develop a staff report for the City Administrator. Based on the staff report, the Administrator will forward the demand to the City Council for formal action.
(Ord. 2004-09, passed 1-10-05)

§ 160.08 WRITTEN DEMAND REVIEW NOTICE.

(A) The City Administrator shall mail notice of the demand to all owners of record of the subject property, and to all owners of property within 100 feet of the property that is subject of the notice, as listed on the most recent property tax assessment roll where such property is located. Additionally, a notice shall be sent to the Clatsop County Assessor, Oregon Department of Land Conservation and Development, Oregon Department of Justice, and others the City Administrator deems appropriate.

(B) The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television, or other electronic means.

(C) The notice shall:

(1) State the basis of the demand, the amount of the compensation sought and the regulation that causes the compensation alleged to be due;

(2) Identify the property by the street address or other easily understood geographical reference;

(3) State that persons notified may provide written comments on the demand, and provide the date written comments are due; and include a general explanation of the requirements for submission of written comments.

(4) The scheduled date, time, and location of the hearing; and the requirements for submission of testimony, evidence, and the procedure for conduct of hearings;

(5) Identify the city representative and telephone number to contact to obtain additional information; and

(6) State that a copy of the demand and the supporting documents submitted by the owner are available for inspection at no cost, and that copies will be provided at reasonable cost.
(Ord. 2004-09, passed 1-10-05)

§ 160.09 HEARING BEFORE THE CITY COUNCIL.

(A) The Administrator shall schedule a public hearing before the City Council to review the demand. The hearing will be conducted in accordance with the following sections:

(1) All documents or evidence relied upon by the owner shall be submitted to the Council as part of the demand. This information will be available for review prior to the hearing. The hearing shall favor testimony; however, additional documents and evidence may also be submitted at the hearing.

(2) Any staff report used at the hearing shall be available prior to the hearing.

(3) The owner shall bear the burden of proof relating to the demand and entitlement to just compensation.

(4) The standard of proof shall be by a preponderance of the evidence.

(5) Once the public hearing is closed, the hearing may be reopened to admit new evidence or testimony, at the discretion of the Council.
(Ord. 2004-09, passed 1-10-05)

§ 160.10 CITY COUNCIL FORMAL ACTION.

(A) Council action will occur at a public meeting, however, the Council reserves the right to enter into an executive session to discuss the demand with legal counsel.

(B) In making its decision, the City Council will consider the standards of Measure 37 and this implementing chapter, the benefit(s) accruing to the public arising as a result of application of the regulation, the harm to the public prevented by the application of the regulation, and the burden to the citizens of the City of Seaside in paying compensation to the owner(s), taking into consideration the available financial resources of the city.

(C) The City Council may take, but is not limited to taking, any one or more of the following actions on a demand, as appropriate:

(1) Deny the demand based on, but not limited to, any one or more of the following findings:

(a) The land use regulation does not restrict the use of the private real property;

(b) The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;

(c) The demand was not timely filed;

(d) The owner failed to comply with the requirements for making a demand as set forth in this chapter;

(e) The owner is not the present property owner, or the property was not owned by a family member if that is required for compensation, or the owner was not the property owner at the time the land use regulation was enacted, enforced or applied;

(f) The land use regulation is an exempt land use regulation;

(g) The land use regulation in question is not an enactment of the city;

(h) The city has not taken final action to enact, enforce or apply the land use regulation to the property;

(i) The owner is not entitled to compensation under O.R.S Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, for a reason other than those provided herein.

(2) Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record. Payment of any compensation is subject to the availability and appropriation of funds for that purpose.

(3) Award compensation, either in the amount requested, or in some other amount supported by the evidence in the record. Payment of any compensation is subject to the approval of a Measure 37 Assessment District that may be established by ordinance.

(4) Award compensation in the form of transferable development rights, either in the amount requested, or in some amount supported by evidence in the record. Transferable development rights shall be evidenced by written certificate specifying the number of units granted and permissible areas or properties for the development rights evidenced in the certificate. Transferable development rights may be sold or otherwise conveyed.

(5) Modify the regulation.

(6) Remove or waive the regulation.

(7) Not apply the regulation.

(8) Acquire the affected property through negotiation or eminent domain.

(9) Negotiate and approve a development agreement pursuant to ORS Chapter 94 and city ordinance.

(10) Take such other actions as the City Council deems consistent with Measure 37, including any appropriate combination of the above options.

(D) A copy of the City Council decision shall be sent by mail to the owner and to each individual or entity that participated in the hearing verbally or in writing, provided a mailing address was provided to the city.
(Ord. 2004-09, passed 1-10-05)

§ 160.11 TERMS OF COMPENSATION AWARD.

(A) If the City Council directs that compensation be paid, then a resolution shall be drafted and approved specifically identifying the current owner(s), the subject property, the amount of compensation and the terms and conditions under which payment shall occur, including but not limited to release of all claims by all owners. The City Council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under this subsection. In addition to a release, another mandatory condition shall be that all owners must agree in writing to the allocation of funds to be disbursed between all owners as that term is defined by the Measure. In the event of disagreement, no funds will be disbursed and if the matter is unresolved, the city may elect to interplead the funds in Circuit Court and the costs of such litigation shall be charged against the owners. All owners shall consent to the recording of a document evidencing payment of compensation in the Official Records of Clatsop County.

(B) Failure to comply with any condition of approval is grounds for revocation of any compensation paid or any other action taken under this section. Unless otherwise stated in the city's resolution, any action taken under this chapter runs with the property and is transferred with ownership of the property. All conditions, time limits or other restrictions imposed with approval of a demand will bind all subsequent owners of the subject property.
(Ord. 2004-09, passed 1-10-05)

§ 160.12 TERMS OF WAIVER OR MODIFICATION.

(A) If the City Council directs that the land use regulation be modified, removed or waived, then a resolution shall be drafted and approved specifically identifying the current owner(s), the subject property and the offending regulation to be modified, removed or waived. In no event will a resolution modify, remove or waive a land use regulation to be less restrictive than the law in effect at the time the current owner acquired the subject property. In addition to the modification, the resolution shall include at a minimum all the applicable conditions and requirements of the Code in effect at the time the owner acquired the property, (i.e. general conditions and standards and any process requirements of the prior code). In order to avoid claims that the city has contracted away the police power, the modification shall have a reasonable time limit imposed, not to exceed two years for final approval of a land use action or permit implementing the modification. If no time limit is imposed the modification will expire after two years. The resolution shall be in recordable form and a copy of the resolution shall be recorded in the deed records of Clatsop County.

(B) The resolution shall effect a modification of the regulation for the current owner only. That is, a decision to remove, modify or waive a land use regulation is personal to the owner, and shall automatically become void and invalid if the owner conveys the property to another person before development of the property consistent with the resolution is completed. Development of the property under this subsection shall not be deemed to be completed until a certificate of occupancy or other appropriate certificate indicating completion is issued by the City of Seaside Building Official. Successors in interest to the current owner shall acquire their interests in the real property subject to such land use regulations as are in effect prior to the date of the successor's acquisition of the real property, as provided by Subsection (3)(E) of Measure 37, and such interests shall have the legal status otherwise provided by law.

(C) The resolution is not a land use decision or a development order. The resolution does not authorize the alteration of the land or otherwise permit development activity. The resolution is an owner specific modification of the applicable law for a specific piece of property. The owner is authorized by the resolution to submit a land use application or permit application in the normal course and the modification substitutes for a portion of the applicable law in the normal process of making findings of compliance and noncompliance with applicable approval criterion. Except for this substitution of applicable law, all other land use regulations and processes remain in full force and effect.

(D) The approval of a resolution granting a modification or waiver by the city pursuant to this chapter does not guarantee any development will occur on the subject property, and all future development is subject to the submittal of land use applications and permits which must be approved in accordance with the law in effect at the time, including the availability of public facilities and services to service the proposed development. The city has no duty, responsibility or liability to legislatively alter its public facilities plans or capital facilities plans to facilitate the development envisioned by the owners. Neither rights to obtain final development approvals, nor any other right to develop the subject property have been granted or implied, solely by the city's approval of a resolution granting a modification or waiver. The approval of a resolution by the city shall not be used by the owner, or their successors in title, in any way whatsoever as committing the city legally through the theory of equitable estoppel or any other legal theory, to grant or obtain any final development approvals for the subject property without full demonstrated compliance with the criteria for approval, including specifically a determination that there are adequate public facilities available to service the proposed development.

(E) It is unlawful to engage in development activity or alteration of land without prior land use approvals and permits. It is a criminal offense to knowingly violate the Zoning Ordinance of Seaside. Owners are put on notice that development activity or land alteration pursuant to a resolution, without other required approvals, is unlawful and will result in criminal prosecution.

(F) In the event the owner (or the owner's successor in interest, if the development is completed prior to conveyance) fails to fully comply with all conditions of approval of the modification or the subsequent land use approval or permit, or otherwise does not comply fully with the conditions of approval, the city may institute a revocation or modification proceeding before the City Council in accordance with established procedures.

(G) A development completed (certificate of completion/occupancy) pursuant to a modification and subsequent land use approvals or permits shall be considered nonconforming under the development code and shall be subject to the nonconformities article. All conditions, time limits or other restrictions imposed with approval of a resolution and subsequent approvals will bind all subsequent owners of the subject property.

(H) Prior to any land clearing, alteration, or physical construction (other than survey work or environmental testing) on a property subject to a Measure 37 modification or waiver, the owners and developer, if any, shall execute a sworn statement under penalty of perjury and false swearing, that owner/developer has obtained all required federal, state, and local authorizations, permits and approvals for the proposed development, including any proposed use, or alteration of the site, including also any off site improvements. Owner/developer shall be solely responsible for obtaining all approvals, permits, licenses, insurance, and authorizations from the responsible federal, state and local authorities, or other entities, necessary to use the property in the manner contemplated, including all authorizations necessary to perform land clearing, construction and improvement of property in the location and manner contemplated. This provision includes, specifically, a permit or statement from the National Marine Fisheries Service and/or Fish and Wildlife Service that owner's proposed use and/or development will not take or harm any endangered or threatened species as that term is defined in applicable Federal Statutes and

Administrative Rules. The city has no duty, responsibility or liability for requesting, obtaining, ensuring, or verifying owner/developer's compliance with the applicable state and federal agency permit or approval requirements. Any permit or authorization granted by the city, including any Measure 37 modification, exemption, exception, permit, approval or variance pursuant to the Zoning Ordinance of Seaside or otherwise, shall not in any way be interpreted as a waiver, modification, or grant of any state or federal agency permits or authorizations or permission to violate any state or federal law or regulation. Owner/developer shall be held strictly liable, and shall hold the City of Seaside harmless for administrative, civil and criminal penalties for any violation of federal and state statutes, including but not limited to the Clean Water Act, Endangered Species Act and regulations implementing such laws

(I) Notwithstanding the terms of modification or waiver set forth in this section, nothing in the Ordinance prohibits an owner and City from negotiating a Development Agreement pursuant to ORS Chapter 94, and the City Ordinance, before or after the approval of a resolution approving a modification or waiver of the applicable regulation. Development agreements have the benefit of guaranteeing development rights for a longer period of time, they can guarantee the availability of public facilities and services, and they have the ability to be conveyed.
(Ord. 2004-09, passed 1-10-05)

§ 160.13 EX PARTE CONTACTS, CONFLICT OF INTEREST AND BIAS.

The following rules govern any challenges to the City Councilor's participation in the review and recommendation motion, or hearings regarding demands:

(A) Ex parte communications with decision makers are to be strictly avoided. Attorneys shall not contact decision makers involved in the review and such contact shall be deemed unauthorized contact with a represented party. Solicitation of a City Council member, City Administrator or staff member to engage in official misconduct on behalf of a claimant or an adjacent property owner will be referred to the City Attorney for criminal prosecution.

(B) Any factual information obtained by the City Council outside the information provided by city staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. A member of the City Council that has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between city staff and members of the City Council.

(C) Whenever the member of the City Council, or any member of their immediate family or household, has a financial interest in the outcome of a particular demand or lives within the area entitled to notice of the demand, that member of the Council shall not participate in the deliberation or decision on that application.

(D) All decisions on demands must be fair, impartial and based on the applicable review standards and the evidence in the record. Any member of the City Council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.
(Ord. 2004-09, passed 1-10-05)

§ 160.14 ATTORNEY FEES ON DELAYED COMPENSATION.

If a demand under ORS Chapter 197, as amended by Ballot Measure 37, and this chapter is denied or not fully paid within 180 days of the date of filing a completed demand, the owner's reasonable attorney fees and expenses necessary to collect compensation will be added as additional compensation provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under ORS Chapter 197, as amended by Ballot Measure 37, within 180 days of the date of filing a completed demand, and the owner commences suit or action to collect compensation, if the city is the prevailing party in such action, then the city shall

be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees. In the event the city is the prevailing party and is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in Seaside, Oregon for the type of legal services performed.
(Ord. 2004-09, passed 1-10-05)

§ 160.15 AVAILABILITY OF FUNDS TO PAY CLAIMS.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.
(Ord. 2004-09, passed 1-10-05)

§ 160.16 PAYMENT OF CLAIMS BY OTHERS.

An individual or entity other than the city may compensate the owner for any diminution in value established under this chapter, in lieu of the city removing, modifying or waiving the land use regulation causing diminution. A contract between the city, the owner, and the individual or entity providing the compensation is a condition precedent to compensating the owner under this subsection, and must be approved by the City Attorney. This option is in addition to, and not in derogation of, any authorized Measure 37 Assessment District.
(Ord. 2004-09, passed 1-10-05)

§ 160.17 APPLICABLE STATE LAW, NO INDEPENDENT RIGHTS CREATED BY THIS CHAPTER.

For all demands, the applicable state law is that portion of ORS Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed on November 2, 2004. Any demand that has not been processed completely under this chapter shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level which specifically state are applicable to local claims in process and which expressly pre-empt existing local regulations on the matter. This chapter is adopted solely to address demands filed under the authority of those provisions of ORS Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed November 2, 2004. No rights independent of said provisions are created by adoption of this chapter.
(Ord. 2004-09, passed 1-10-05)

§ 160.18 PRIVATE CAUSE OF ACTION.

In order to protect the reasonable investment-based expectations of other property owners who have relied upon land use regulations in purchasing real property, if the modification, removal or waiver of a land use regulation pursuant to Measure 37, as implemented in this chapter, results in a reduction or diminution or reduction in value of other owner's real property located in the vicinity of the property, then the affected owner or owners shall have a cause of action in Circuit Court against the claimant (i.e. current owner(s)) to recover damages in an amount equal to the diminution of value in that owner(s) real property as a result of the Measure 37 authorized development by the claimant. A person who recovers for a diminution or reduction in value of property under this section shall also be entitled to recover attorney's fees and disbursements from the Measure 37 claimants. This cause of action is in addition to an not in derogation of any other causes of action available to affected property owners, including actions for public or private nuisance and trespass. This section does not create a cause of action against the city.
(Ord. 2004-09, passed 1-10-05)

§ 160.19 NO LEGAL DEFENSE CREATED.

Neither Measure 37 nor this chapter, creates a legal defense to a criminal or civil enforcement proceeding concerning violation of a lawfully adopted regulation or standard.
(Ord. 2004-09, passed 1-10-05)

CHAPTER 161: CONVERSION CONDOMINIUMS

Section

161.01 Purpose
161.02 Definitions
161.03 Conversion condominium declarant requirement to pay tenant moving expense
161.04 Payment exceptions

161.99 Penalty

§ 161.01 PURPOSE.

The purpose of this chapter is to require the declarant to pay the moving expense of a tenant vacating a conversion condominium unit.
(Ord. 2007-04, passed 5-14-07)

§ 161.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONVERSION CONDOMINIUM. A condominium in which there is a building, improvement or structure that was occupied prior to any negotiation and that is:

(1) Residential in nature, at least in part; and

(2) Is not a unit rented as transient lodging at a hotel, motel or inn.

DECLARANT. A person who records a declaration under O.R.S. 100.100 or a supplemental declaration under O.R.S. 100.110.

DECLARATION. The instrument described in O.R.S. 100.100 by which the condominium is created.

RENT. Any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others. *RENT* does not include security deposits, fees or utility or service charges as described in O.R.S. 90.315(4) and 90.532.

RENTAL AGREEMENT. All agreements, written or oral, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises. *RENTAL AGREEMENT* includes a lease.

TENANT. A person or group of individuals entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.
(Ord. 2007-04, passed 5-14-07)

§ 161.03 CONVERSION CONDOMINIUM DECLARANT REQUIREMENT TO PAY TENANT MOVING EXPENSE.

The declarant of a conversion condominium must pay the moving expense of any tenants entitled to receive the initial notice of conversion under O.R.S. 100.305(1). Tenant moving expense payment shall be in an amount equal to the required rent payment for the preceding two months subject to a minimum payment of not less than $1,500. Payment shall be made in cash within 72 hours of the declarant issuing the initial conversion notice.
(Ord. 2007-04, passed 5-14-07)

§ 161.04 PAYMENT EXCEPTIONS.

(A) Payment provisions do not apply to a tenant that agrees to purchase the unit they currently occupy provided the unit will not be substantially altered during the conversion process.

(B) Payment is not required for any new tenants subsequent to the initial notice under O.R.S. 100.305(1) provided the subsequent tenants are advised of the pending conversion in accordance with state statute and they are further notified the tenants they are not entitled to the payment of moving expense under this chapter.
(Ord. 2007-04, passed 5-14-07)

§ 161.99 PENALTY.

(A) Any declarant violating the provisions of this chapter shall, upon conviction thereof in the Municipal Court, be punished by a fine of not less than $500 and not more than $1,000.

(B) Failure to pay the appropriate moving expense to a tenant shall entitle the tenant to a 50% increase in the required tenant moving expense payment.
(Ord. 2007-04, passed 5-14-07)